

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 5, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 5, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair (Out @ 4:58pm); James Barfield (In @ 1:34pm, Out @ 3:30pm, In @ 4:08pm, Out @ 4:45pm); Ray Warren; John W. McKay Jr. (Out @ 4:57pm); Bill Johnson; Morris K. Dunlap; Ronald Marnell; Don Anderson (Out @ 4:22pm); Elizabeth Bishop; Jerry McGinty; David Wells (In @ 1:49pm); Frank Garofalo. Jerry Michaelis was not present. Staff members present were: Dale Miller, Secretary; Donna Goltry, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; Dave Barber, Land Use Supervisor and Rose Simmering, Recording Secretary.

OFF AGENDA ITEM

NEIL STRAHL, Planning Staff, just to elaborate a little bit. We had a plat last week that was involved with the wetlands issue. About 6 months ago G.I.S. added a new wetland layer on their mapping system and it was decided internally that any portion of a plat that would be located inside of this wetlands area would include a standard advisory comment on all plat conditions. Basically all the advisory comment states is that the area was identified as a potential wetlands area and that the Army Corps. of Engineers should be contacted to have a wetland determination completed.

Steve Penaluna, Regulatory Project Manager for the U.S. Corps of Engineers at El Dorado, KS. made a presentation regarding the Corps responsibilities.

BISHOP Where does the wetland overlay come from?

SUSAN ERLLENWEIN, DIRECTOR, ENVIRONMENTAL RESOURCES The conservation district worked NRCS and their rules for developing potential wetlands. It was developed by looking at 7 years of past aerial photographs.

BISHOP It was developed with local input?

ERLENWEIN That is correct. Not every county has one. We did it to help expedite the planning process so not every single piece of property would be suspect so we could narrow it down.

BISHOP So what happened is at the plat we have a condition on the staff report with language such as: "In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed." What we are finding is that the applicants have objections and have fears that it will cause a delay in the process.

ERLENWEIN It is a federal law to provide protection of the wetlands and would suggest to the Subdivision Committee to leave that language in.

WARREN Normally in those cases where that wetland area would show up on a GIS map, how long would it take for the applicant to get approval from you and go ahead?

PENALUNA Normally less than a month if it is a small area. If it is a large tract of land they will have to get an environmental engineer to do the work they find them in the yellow pages. About 120 days would be the worst case scenario.

WARREN Approximately 30 days for most projects though.

1. Consideration of Subdivision Committee Recommendations

1-1. SUB2003-28 – Final Plat – CRYSTAL CREEK ADDITION, located on the north side of Harry, west of Greenwich Road.

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the portion of the property not contained within the zone change will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
- E. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **Left turn lanes along Harry are requested.**
- F. The plat proposes three joint access openings for the commercial lots along Harry. Distances should be shown for all

segments of access control. The final plat shall reference the dedication of access controls in the plat's text. **Traffic Engineering requests that the joint opening located between Lots 5 and 6, Block D be relocated entirely within Lot 6 to be in alignment with the major opening platted in the Smithmoor Addition across Harry. A cross-lot access agreement is needed for the benefit of Lot 5.**

Access controls have been platted as requested.

- G. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easements should also be addressed by the text of the instrument.
- H. **The applicant will provide a 20-foot roadway surface for ingress and 29-foot roadway surface as part of the egress onto the arterial street to eliminate the need for a second point of access.**
- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- J. MAPD and **Traffic Engineering** request a street stub shown extending to the east from Smithmoor Street for increased mobility when development occurs in this location. **The Subdivision Committee did not require this connection.**
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. Block D needs to be replaced with Block B and include Lots 22 through 27.
- O. **GIS** needs to comment on the plat's street names. **Smithmoor St. needs to be eliminated and replaced with Zimmerly and Boston. Shiloh Ct needs to be labeled.**
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (13-0).

1-2. **SUB2003-51 – One-Step Final Plat – REPLAT OF PART OF HARBOR ISLE THIRD ADDITION, located east of Meridian, south of 53rd Street North.**

- A. **City Engineering** has requested new petitions for sewer, water and paving.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering requests a minimum pad elevation.**
- D. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- E. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- F. Lot 21 needs to be renumbered as Lot 1, Block 2.
- G. **GIS** requests that "Court" be abbreviated as "Ct".
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning staff presented staff report.

KENNY HILL, POE AND ASSOC., We would like the requirement for the wetland to be determined be waived. This development has been going on for a number of years and we have not had any problem in the past. A three month delay can really hurt a project.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (13-0).

- 1-3. **SUB2003-48 – One-Step Final Plat – PRAIRIE POINT ADDITION, located on the north side of 37th Street North, west of Maize Road.**
- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
 - C. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering requests a drainage plan to review impact upon the County road right-of-way. City Engineering has approved the drainage plan. A guarantee is required.**
 - D. **Traffic/County Engineering** needs to comment on the need for any improvements to perimeter streets. **Traffic Engineering has requested a petition for contingent left turn lanes.**
 - E. The plat proposes complete access control along the plat's frontage to 37th St. North with two openings for street entrances.
 - F. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
 - G. The Applicant shall provide a petition to the City for paved access of 37th St. North from Maize Road to the first entrance.
 - I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
 - J. If any of the intended recreational uses for the reserves includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
 - K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
 - L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
 - M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
 - N. The wall easement shall be referenced in the plat's text.
 - O. Prairie Pointe shall be renamed upon future determination by the Street Address Committee. Stoney Point shall be renamed to Manchester.
 - P. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
 - Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
 - S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
 - T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
 - U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
 - V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy and Aquila has requested additional easements.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning staff presented staff report.

The applicant has issue with the Condition H - Traffic Engineering and MAPD requested a street stub extending to the west, located north of Lot 8, Block 2 providing future access to adjoining tracts. Another issue was the Street names, and now an agreement has been reached and the name of the eastern most street will be named Manchester, and the east-west street will be determined at a future meeting with the applicant and GIS.

DUNLAP Where is the stub going to be?

STRAHL On the northern portion of the property. Subdivision ordinance has a ¼ mile limitation on block length. Anywhere on the northern portion of this plat will be sufficient.

ROB HARTMAN, P.E.C. We have worked out the street names, and the question is now if we need 4 access points into a 53 acre development with 100 lots or will 3 be sufficient? We have two points off of 37th Street, and one point going up at the northeast corner of the development. It is our thinking that the NW Bypass will cut off development about ½ north of this plat.

MOTION: To approve SUB2003-48 plat without the opening as indicated on the plat.

WARREN moved, **DUNLAP** seconded the motion.

GAROFALO Is it correct that the property to the west would have access to the south?

STRAHL It would have direct access to 37th, but we want additional access.

BARFIELD The traffic engineer felt the need for safety is why they wanted another entrance?

STRAHL Yes, they wanted another entrance as well due to access management regulations and the Fire department thought it would be in their benefit as well to have additional access.

BISHOP I voted against the plat in subdivision. I think it is a good idea to have more access points. The traffic conflicts are a problem with everyone trying to get out on the arterial. I do not intend to support the motion.

MOTION CARRIED 8-5. (GAROFALO, MCGINTY, MARNELL, BISHOP, BARFIELD, opposed.)

1-4. SUB2003-39 – One-Step Final Plat – SHOAL CREEK SECOND ADDITION, located on the west side of 143rd Street East, south of Central.

- A. A respread agreement is needed for sewer services. A new petition will be needed for water service.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. City Fire Department requests a 20-ft paved road surface for the ingress entrance and a 24-ft paved road surface for the egress.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- G. Traffic Engineering needs to comment on the need for improvements to 143rd St. East. A petition for construction of a decel lane has been submitted with the Shoal Creek Addition.
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- I. GIS needs to comment on the plat's street names. The street names are approved.

- J. **Traffic Engineering** has requested dedication of 10 feet of right-of-way along 143rd St. East. **The Subdivision Committee did not require this condition.**
- K. The applicant shall guarantee the installation of the interior streets.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- N. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional utility easements.**
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (13-0).

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- 1-5. **SUB2003-54 – One-Step Final Plat – LILLIE SECOND ADDITION, located south of Maple, on the west side of Maize Road.**
- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are required.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A minimum pad is needed.**
- E. **Traffic Engineering** needs to comment on the access controls, particularly the need for minimum separation between openings. The plat proposes two access openings along Maize Road. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the platting text. **Traffic Engineering has approved**

the existing opening along Maize Road. A second opening limited to rights-in/out shall be located in alignment with Wetmore Street across Maize Road. The applicant will be removing access controls along Hidden Valley Road.

- F. **Traffic Engineering** has requested the dedication of additional right-of-way along Maize Road to conform with the 60-ft half-street right-of-way required by the Access Management Regulations. **The Subdivision Committee has approved a 10-ft sidewalk and utility easement.**
- G. **Traffic Engineering** has requested a petition for a contingent left turn bay at the major entrance.
- H. The location of the plat needs to be revised on the vicinity map.
- I. The range "1E" needs to be revised to "1W" as shown on the vicinity map.
- J. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD (referenced as PUD #17) and its special conditions for development on this property.
- K. The 20-ft building setback denoted on the plat does not correspond with the setbacks specified on the PUD. **A 25-ft setback will be platted.**
- L. **City Fire Department** requests a 20-ft paved surface to serve all the structures including a loop or turnaround.
- M. **GIS** has requested that the street abutting the plat to the south be labeled as Hidden Valley Road.
- N. On the final plat tracing, a note shall be placed on the face of the plat indicating that this Addition is subject to the conditions of the Planned Unit Development.
- O. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- P. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

Defer Item 1-5 until the PUD associated with this case is heard later in the meeting.

2-1. VAC2003-19 – Request to Vacate Street Right-of-Way.

OWNER/APPLICANT: Roger Overstreet (contract purchaser)

AGENT: Mark Savoy

LEGAL DESCRIPTION: All of Byron Avenue, lying east of and adjacent to Lot 1, Block N and lying west of and adjacent to Lot 4, Block M, Westport Addition, Wichita, Sedgwick County

LOCATION: Southwest of the Kellogg Avenue – Tyler Road intersection

REASON FOR REQUEST: Future development of site as parking

CURRENT ZONING: “GC” General Commercial abutting the east and west sides, “LI” Limited Industrial zoning abutting on the south and Kellogg Avenue on the north side.

The applicants are requesting to vacate the Byron Street right-of-way for the future development as a parking lot. Byron Street is an unimproved ROW, at this location, that dead ends into Reserve A of the Westport Addition and has uncontrolled access onto Kellogg. The ROW is 65.7-foot wide and 250 foot wide. A portion of Byron from the north side of Kellogg to Dubon Street was previously vacated, V-1102, which prevents Byron from being a through ROW across Kellogg. Byron abuts a drainage easement on its south side, which abuts Railroad ROW, all of which appears to prevent any development south of Byron. Property south of Byron has access off of Tyler to the east.

A portion of this section of Byron was proposed to be vacated, V-1483, but denied by the WCC on 07-26-1988. At that time future plans for improvements to the Kellogg – Tyler Road interchange required a need for additional but undetermined ROW off of Byron. This undetermined need made the request for vacation premature and thus the denial. Drainage and utilities were in the ROW at that time and remain in the ROW now. Reversion rights would be to the abutting properties, all in the Westport Addition, which was recorded May 28, 1953.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the platted Byron Street ROW as described in the legal description, with conditions. Retention a portion of the platted street ROW as a utility and drainage easement and subsequent comments from:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 15, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted street ROW described in the petition should be approved subject to the following conditions:
1. Retention of a portion of the platted street ROW as a utility and drainage easement with a metes and bounds description, as approved by the Public Works Engineer.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Retention of a portion of the platted street ROW as a utility and drainage easement with a metes and bounds description, as approved by the Public Works Engineer.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards

MOTION: To approve Item 2-1 and 2-2.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (11-0). (**WARREN** and **MCGINTY** out of conference room and did not vote.)

2-2. VAC2003-20 – Request to Vacate a Portion of a Platted Setback.

OWNER/APPLICANT: Reichenberger Family LP

AGENT: AM Consulting Inc, c/o Kim Edgington

LEGAL DESCRIPTION: The south 65-foot of the platted 100-foot building setback line running parallel to the north property line of Lots 2, 3, & 4, the Dugan Center 2nd Addition, Wichita, Sedgwick County.

LOCATION: Generally located north of Kellogg between Hoover (east) and Ridge (west), 6910 West Kellogg Drive

REASON FOR REQUEST: New development on the site.

CURRENT ZONING: Subject property and properties to the west and east are zoned "GC" General Commercial. Properties to the south are zoned "LC" Limited Commercial and "GC". Property to the north is zoned SF-5 Single Family Residential.

This site is subject to the Dugan Center CUP (CUP DP-151). The applicant had applied for an amendment to the CUP; CUP2003-24 DP-151. The amendment would allow a 65-foot reduction of the 100-foot setback, as described in this case's legal description. Because the 100-foot setback shown on CUP DP-151 was also a platted on the Dugan Center 2nd Addition, both an amendment to the CUP and a vacation of the platted setback is required. The Dugan Center 2nd Addition was recorded July 14, 1993.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the south 65-feet of platted 100-foot setback as recorded on the Dugan Center 2nd Addition, with the condition that the setback be reduced as described in VAC2003-20 also be reduced in DP-151. The MAPC approved CUP2003-24 DP-151 May 22, 2003, pending the 14 day protest period during which the case may be appealed or protest to the governing body for the final act on the requested amendment.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 15, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the patted setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted setback and described in the petition should be approved subject to the following conditions:
1. Upon the end of the 14 day protest period, from the May 22, 2003 MAPC meeting, if no protest or appeals have been filed against the amendment to the Dugan Center 2nd Addition CUP, DP-151, VAC2003-20 may proceed to the WCC for final action.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Upon the end of the 14 day protest period, from the May 22, 2003 MAPC meeting, if no protest or appeals have been filed against the amendment to the Dugan Center 2nd Addition CUP, DP-151, VAC2003-20 may proceed to the WCC for final action.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

MOTION: To approve Item 2-1 and 2-2.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (11-0). (**WARREN** and **MCGINTY** out of conference room and did not vote.)

3. **Case No.: CON2003-08** - H. Gump Revocable Trust c/o R.H. Gump (Owner); Cricket Communications c/o Kim Wimmer and Nordyke Ventures LLC c/o Mark Nordyke (Applicants); Ferris Consulting c/o Greg Ferris (Agent) request Conditional Use for 135-foot high wireless communication facility disguised as a flagpole on property zoned "LC" Limited Commercial on property described as;

That part of Lot 1, Block A, Gump Addition to Wichita, Sedgwick County, Kansas, described as commencing at the Northwest corner of said Lot 1; thence South, along the west line of said Lot 1, 99.5 feet for a place of beginning, thence East, at right angles, 60 feet; thence South, at right angles, 38 feet; thence West, at right angles, 60 feet to the west line of said Lot 1; thence North, along the west line of said Lot 1, 28 feet to the place of beginning. Generally Located 600 feet east of Woodlawn on the south side of Kellogg

SCOTT KNEBEL, Planning staff presented staff report. The Planning Commission previously recommended this request for approval and it was sent to the City Council who referred the request back to the Planning Commission and asked that the Planning Commission reconsider their recommendation and have asked you to address three specific issues.

On May 20, 2003, the City Council considered the above-captioned request. The action of the City Council was to send the request back to the Metropolitan Area Planning Commission and, if necessary, District Advisory Board II for reconsideration of the recommendation. Specifically, the City Council requested that the MAPC and, if necessary, the DAB address the following issues:

1. Are other structures or buildings that have been suggested by staff and the public available for location of some or all of the antenna needs of the applicant? Could multiple shorter towers or flagpoles that do not have the same visual impact on the surrounding neighborhoods meet some of the applicant's needs?
2. If a facility disguised as a tall flagpole were to be approved, what conditions should be considered for the display of any type of flag on such a flagpole?
3. Is the City adequately protected in the event the applicant (or other users) are financially unable to maintain the facility?

This request has been scheduled for consideration before the MAPC on Thursday, June 5, 2003. The applicant has submitted the attached letter dated May 26, 2003, which addresses the issues raised by the City Council. Also attached to this memo is additional correspondence received from protestors since the close of the public hearing on this item on April 24, 2003. The staff report presented at the April 24, 2003 public hearing also is attached.

The following is planning staff's perspective on the issues the City Council has requested that the MAPC provide additional consideration.

1. **Are other structures or buildings that have been suggested by staff and the public available for location of some or all of the antenna needs of the applicant? Could multiple shorter towers or flagpoles that do not have the same visual impact on the surrounding neighborhoods meet some of the applicant's needs?**

As is stated in the staff report, two existing multi-story hotel buildings are located in the vicinity of the proposed wireless communication facility. The applicant submitted radio frequency propagation plots analyzing the capability of these two existing structures to meet their communication needs. Planning staff reviewed the radio frequency propagation plots and agrees with the applicant's analysis that neither of these facilities alone or in combination is capable of meeting the applicant's communication needs. There has been no additional evidence submitted through the public hearing process that would lead planning staff to change its position as it pertains to the existing multi-story hotel buildings.

During the public hearing process two other multi-story buildings were suggested by citizens as possible locations for the applicant's antennas. The first building is the Hillcrest Financial Center located at the southwest corner of Kellogg and Rock. Based on the testimony at the public hearings and a review of the applicant's radio frequency propagation plots, planning staff agrees with the applicant that this building is located too far east and too close to their existing tower at Joe Self Chevrolet to meet their communication needs. The second building suggested by citizens is the Veterans Administration (VA) Hospital located at the northwest corner of Kellogg and Edgemoor. Planning staff contacted VA staff, and VA staff indicated that they would not consider placing additional antennas on the building because antennas would detract from the historical significance of the building. VA staff did indicate that they were willing to consider constructing a ground-mounted tower on the northwestern portion of their property. It is the opinion of planning staff that the northwest corner of the VA property is a poor location for a tower due to the close proximity of low density residential uses. There is, however, an existing tall flagpole located just west of the main VA building that could be replaced with the proposed stealth flagpole. It is the opinion of planning staff that VA property is a better location for the proposed stealth flagpole than the Gump property since the VA property is significantly larger than the Gump property. However, the stealth flagpole may generate even more neighborhood opposition at the VA site due to its closer proximity to low density residential uses.

It is the opinion of planning staff that multiple shorter towers or stealth flagpoles rather than the single larger stealth flagpole proposed by the applicant could be used to meet the applicant's communication needs, and the applicant has confirmed that planning staff's opinion on this matter is accurate. One such option would be to replace existing flagpoles in the vicinity with two or three shorter stealth flagpoles. The Unified Zoning Code (UZO) allows the replacement of existing flagpoles with a stealth flagpole tower without public hearing approval if the applicant can demonstrate a communication need to the satisfaction of City staff. The UZO also allows the stealth flagpole tower to exceed the height of the replaced flagpole by up to 25 percent. For example, if an existing flagpole is 80 feet in height, a stealth flagpole tower at a height of 100 feet could be installed in its place without public hearing approval. However, the UZO also includes a provision that a new tower should be approved instead of requiring reconstruction of existing structures if the applicant can demonstrate that it is more costly to reconstruct existing structures than to construct a new tower. The applicant has submitted documentation that using existing structures is more costly than constructing a new tower, and reconstructing existing structures would be even more costly than using existing structures.

Regarding the visual impact of towers on surrounding neighborhoods, it is the opinion of planning staff that reducing the height of a tower does not significantly reduce the visual impact of the tower unless the height of the tower is in the 60 to 80 foot range. Such tower heights are unlikely in this instance, since the applicant has demonstrated that locating on existing buildings at similar heights does not meet their communication needs; therefore, it is likely that multiple towers at reduced tower heights would be closer to 100 feet in height. Towers around 100 feet in height, even if they are disguised as flagpoles, likely will not reduce the amount of neighborhood opposition, and since two or three locations would be needed, there would be two or three neighborhoods impacted and opposed to the request instead of one.

The applicant has noted that shorter towers do not provide the same co-location capabilities as taller towers, so more than two or three towers (the applicant states nine towers) would be required to meet the needs of all wireless service providers in the area. While it is probably accurate that two or three short towers in the vicinity will not meet the long-term communication needs of all wireless service providers, planning staff does not agree with the applicant's implication that a single five-carrier tower will meet the needs of all wireless service providers in the area. As has been the case for all towers approved in the last few years, the co-location capabilities of each tower has been underutilized and additional towers have been requested and approved within the general vicinity of existing towers because the existing towers did not meet the communication needs of a specific wireless service provider. The same scenario likely would occur with the proposed stealth flagpole, and if the requested stealth flagpole is approved, the issue of locating a monopole tower at the

VA property likely will resurface because some wireless service providers will find that the VA property is a more desirable location and/or tower type for meeting their specific communication needs.

2. If a facility disguised as a tall flagpole were to be approved, what conditions should be considered for the display of any type of flag on such a flagpole?

Given the height of the proposed stealth flagpole, the City's sign regulations permit only the display of flags or emblems of a government or of a political, civic, philanthropic, educational, or religious organization on the stealth flagpole. The City's sign regulations further require that such flags or emblems not include any advertising language. A condition of approval for the Conditional Use could be included to require that the stealth flagpole comply with the City's sign regulations, even though compliance with the City's sign regulations will be required whether or not it is specifically listed as a condition of approval for the Conditional Use.

The applicant has proposed displaying the flag of the United States of America on the stealth flagpole. Title 36 of the United States Code outlines the patriotic customs by which civilians should display the United States flag. Such customs include that the flag should be displayed only between the hours of sunrise and sunset unless the flag is lighted during night time hours. The applicant has proposed lighting the flag at night, while planning staff has recommended that the flag not be lighted to prevent the trespass of light onto surrounding properties.

Displaying the flag only during the day will require that the applicant raise the flag each morning and lower the flag each evening in accordance with the patriotic customs. Citizens have expressed concern that the applicant will not fulfill this requirement because the size of the flag will require more staff to raise and lower the flag in accordance with the patriotic customs than the applicant will be willing to provide. The citizen's concern is that the result will be that the stealth flagpole will then be only a pole with no flag. The citizens also are concerned that either the City will not be able adequately enforce the requirement that a flag be displayed and the pole will be allowed without a flag illegally or that the applicant will seek a future modification of the Conditional Use to remove the prohibition on lighting the flag. Therefore, it needs to be determined if lighting the flag along with its corresponding trespass of light onto surrounding properties is favorable to the possibility that a flag ultimately may not be displayed at all or that lighting the flag may be permitted in the future. Planning staff recommends that lighting the flag not be permitted and that rejecting a condition of approval not be based on a supposition that the applicant will not comply with the condition, especially since the applicant has stated that they can and will comply with the condition if required.

3. Is the City adequately protected in the event the applicant (or other users) are financially unable to maintain the facility?

The UZC requires the owner to remove a wireless communication facility within 60 days if it has been unused for 12 consecutive months. The UZC further provides that the City may obtain authorization from a court of competent jurisdiction to remove the tower and place a lien on the property for all direct and indirect costs incurred in the tower removal including court costs and attorney fees. It is the opinion of planning staff this UZC provision provides adequate protection for the City.

BARFIELD Scott, you have talked about buildings in the area, are there any other towers or the buildings nearby that could be utilized?

KNEBEL There was one tower that the applicant mentioned in their request, and that is located at Central and Edgemoor, which is pretty far away from this location, about 1 mile north and about ½ mile to the west. They indicated that tower is outside of their search ring. Commissioner Bishop did ask me just before the meeting about whether or not any of the school towers were explored.

BARFIELD Are we being asked to approve or deny a tower or a flagpole?

KNEBEL The request is for a disguised flagpole, and the flagpole would be a wireless communication facility. It is the same requested you were presented previously for this facility here.

GAROFALO Could you address this issue on the second page of your memo about the possibility about rebuilding a current flagpole so that we wouldn't add another one?

KNEBEL That is an option to rebuild the existing flagpoles. There is an existing flagpole immediately west of this proposed location, the applicant could replace that flagpole with a disguised wireless communication facility, which could exceed that existing height of that flagpole by 25% and that would not require a review through a public hearing process. There are other flagpoles up and down Kellogg mostly at car dealerships and that would apply to any of those and it would also apply to the flagpole at the V.A. property.

GAROFALO Has the applicant explored that option?

KNEBEL I do not think they have. Not to my knowledge. They have not explored an option that would involve constructing multiple facilities other than the one that the staff specifically suggested regarding the two existing buildings.

GAROFALO There is a possibility that an existing flagpole could be replaced or reconstructed without having multiple sites?

KNEBEL This type of flagpole, I would assume, could be moved 50 feet or 100 feet to the west where the existing flagpole is most adjacent to this and replace that flagpole instead of being located where it is now. I assume then could replace one of the other flagpoles like at the V.A. property instead of being constructed where it is proposed. I haven't seen any evidence that would indicate that it couldn't. Those properties are reasonably within the same proximity.

GAROFALO This sentence that you have here that the applicant has submitted documentation that using existing structures is more costly than constructing a new tower would that be in reference to reconstructing another pole?

KNEBEL Your last question was could they reconstruct a single flagpole in the area. That statement refers to reconstructing multiple flagpoles in the area. It is attempting to address the question whether or not multiple shorter facilities could be built instead of one taller facility, and what that statement addresses is the Unified Zoning Code provision that if the option of constructing multiple facilities is more expensive then the proposed single facility then the City should not require that option.

GAROFALO So there is a possibility that a pole that is already there could be reconstructed and used instead of sticking up another flagpole?

KNEBEL I think that is an accurate statement, yes.

DUNLAP I would like to address that particular statement. I used to own a company that built most of those flagpoles out there at those car dealerships. It cannot be reconstructed. As a matter of fact, there is a question in my mind whether they ought to be there. Also the height if they were to replace one of those with a tower they can go up 25% without coming back to us, but the highest one out there is less than 70 feet tall. So if you are going to talk about a particular spot but not reconstructing the pole that is there.

KNEBEL I agree with that statement. I was not indicating that you could utilize the flagpole. My understanding of Mr. Garofalo's question is could this particular proposed pole be put be put somewhere else and located where there is an existing flagpole instead of the proposed property.

BISHOP Do you know what the school board's policy is on co-location? Do they have a policy?

KNEBEL They do not have a policy. The position of the school board is unchanged from the numerous hearings that this board had a couple of years ago regarding the potential of locating towers or facilities on school properties. To my knowledge, and I have been in contact with them on a routine basis, they have not done any of the things that they indicated to this commission the were going to do regarding adopting a policy.

MCGINTY Did this go back to the D.A.B. this week?

KNEBEL The motion of the City Council was to send it to the District Advisory Board if necessary, and there was no clarification of that, so staff is assuming that the Council or the Council Member will let us know if they believe that it is necessary for it to go to the District Advisory Board.

BARFIELD This has been before the City Council, and they sent it back to both us and the District Advisory Board. Obviously they had some concerns. Are all of those concerns listed here?

KNEBEL Yes, the three concerns that are listed on the first page are the specific concerns that the Council asked to be addressed.

GAROFALO After reviewing these three questions that the Council sent back has the staff taken a position now or is staff sticking with the original position of approval?

KNEBEL Staff has not changed our recommendation.

GREG FERRIS, FERRIS CONSULTING Three weeks ago I was in touch with Darren Muci, Division Director of Operation for USD 259, and Darren informed me that the schools were not ready to do anything on any of their sites. I have about three that I would like to use, but as to date, this was within the last three weeks, they are still not ready. He did tell me that they would never allow us to reconstruct one of their towers, which I thought was a little bit strange, but that was their position in the last e-mail I got from Darren.

In reference to the reconstruction of an existing flagpole, Scott, maybe you are not aware of this, but Kurt Schroeder, who would have to approve the reconstruction of a flagpole, told me that I could not replace an existing flagpole with this structure, and that it would not comply with the Wireless Plan, and that I would have to go through a Conditional Use just as we are today if I were to replace an existing flagpole. If that was the case I could erect a 127 foot flagpole tomorrow and then replace it, because I am allowed today at this very moment and all I have to do is provide documentation to the City and plans to erect an 127 foot flagpole on this exact location, and if that was the case I could then erect something that is substantially taller than what I am requesting today. I could then come in and replace that and staff has indicated that because existing flagpoles are smaller than this then they would not believe that it complies with the Wireless Plan's condition that it would not be substantially larger in scope if replaced. So OCI told me that we would not be allowed to replace an existing flagpole with a stealth flagpole without going through either the Administrative Permit if it was under 82 feet or a Conditional Use if it was over that.

I want to talk a little bit about the three questions from Council. First of all I am not sure that the Council thought that they were major issues, but what they did believe, and I expressed that I had no problem with this, was that there were questions in the community, and I am going to try and conclude my remarks because I think you are going to have a lot of speakers, and I would like to be able to answer their questions because that was one of the goals of sending it back here was the community could air their concerns and tell you what their issues were, and if I couldn't answer those, then perhaps you would change your recommendation. I believe that the packet of information that you have from us does adequately answer those questions. I have not heard a lot of new questions but we might today, and I would like to answer those because I believe the Council Member would like those answered so that she can make an adequate recommendation, and I believe the other Council members would like the questions answered so that they can make an adequate decision.

I don't know if five carriers will end up on this pole. It is very possible, very not possible, but I can promise you that two or three towers will not be adequate to replace this tower. A lot of you were here when the City Council unanimously adopted the Wireless Communication Plan. The Wireless Communication Plan specifically encourages fewer taller towers than many short towers. Why? It is pretty simple. Would you like to have one hearing with this many people or would you like to have six or seven of those. I use 10 as a possible number, and I don't think that is out of question. Even it was only four, I will tell you that we looked up the entire stretch of Kellogg. Other than the Veterans Hospital and the Scotch and Sirloin, we found no willing landlords, and I think I included

the documentation that we would be within a 100 to 150 feet of residential property. Even if we reconstructed the flagpole on the V.A. property, we would be less than 250 feet from a neighborhood, no buffer, no highway, no lighting, and we would not be allowed to do that by right unless we went to 60 feet, which we already documented the hospital building would block the signal. I think we have adequately demonstrated all of the criteria that the Wireless Plan lays before you.

Does this comply with the Wireless Plan? Staff does not tell you that it complies with the Wireless Plan willy-nilly. They study it pretty hard, and if it doesn't comply they tell you it doesn't, and in this case they tell you that it does. There has been some stuff in the media. There has been some information that has been before the Council in letters and different things that says why are we doing a flagpole? If the City does not want us to do flagpoles like this, tell us, because your Wireless Plan says as one of the nine location design guidelines this is what you tell us you want it to look like. Concealing facilities within space in existing structure or disguised to look like another type of facility like a flagpole, clock tower, or church steeple. Don't tell us you want us to put up a flagpole in your Wireless Master Plan if you don't want us to do that. If you today believe that you shouldn't do that, that is all well and good. We can change the Master Plan. Take that out of there. I don't have any problem with that. I submitted my application in good faith based on the Wireless Master Plan. In fact, we went back and reworked and redid our application after many public hearings because of what we heard people were concerned with. We don't want a big monopole there. We don't want you take up all this property. We want the equipment concealed, which we are not even required to do with the Wireless Master Plan. It is encouraged, and we are doing it. So we are in compliance as staff has said over and over again. As your records show, as you voted last time, we are in compliance with the Wireless Master Plan.

Out of the forty or fifty towers I have done in this area, I don't know that I have ever met more of the design criteria on any cell tower in the City of Wichita than this one. This should be a very easy approval, and it was, and you approved it very easily, because that is the way it should be. We met all the criteria. We provided all of the documentation. We have convinced somebody. It is hard to convince staff, and it was approved by the District Advisory Board. We believe that you should concur with the same motion that you made before.

MOTION: To allow speakers 3 minutes instead of the normal 5 because there are so many people here to speak.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

MICHELE CHAUNCEY, 322 Morningside I have submitted a letter that you should have before you today. My concern is that even though this pole is being put in at 135 feet, Mr. Nordyke was asked specifically if this pole was going to be 165 feet, and he said his intention was it would be 165 feet. City Hall is 210 feet. The Wireless Plan that we have states that sites should be on existing street poles, and I did contact Kreines and Kreines, the consultants who did our wireless plan, and I asked them if a height in excess of 100 feet was necessary to insure capacity or cover; and they told me that most of the towers in California did not exceed 50 feet and that the height being requested was not necessary. The tower at Carriage Parkway is underutilized. There are only 2 carriers on this pole. I would urge the panel to follow the wireless communication plan that the city funded in 1999 and deny this application.

SHAWN DEVLIN, 26 COLONIAL CT, Wichita, KS 67207 I have six issues that I would like to address. I am opposed to this flagpole. I am not against the flag. I am against this cell tower disguised as a flagpole. I think this flagpole is out of character with the surrounding areas. None of the other flags in the corridor are anywhere near the proportion of this either in height or diameter of the pole. The lighting is not the only problem with this pole. It will be located right next to the residential area. I sat at the park near the pond, and this will be so close to that pond. It will be an eye sore. This is going to have a negative impact on the homes and the value. This is the third time this has been to MAPC, WCC, and D.A.B.

DAVID BABICH, 4431 Ironwood, Wichita, KS 67211 I am here in opposition of this application. The FCC has comprehensive guidelines for tower placements as a result of the telecommunication act of 1996. Section 704C requires that the President or his designee prescribe procedures by which the federal government may make available property, rights-of-way, and easements for the placement new spectrum based telecommunication services. This project proposes no improved quality of life, no revenue for the city, no added employment, just windfall profits to the private individual. The applicant is not even a communication provider but a tower developer. This appears not to be a tower looking for location rather a location looking for a tower. The applicant has proposed a tower, then a flagpole, then a monument, and now back to a flagpole.

STEVEN OVERSTREET, 24 LAKESIDE, WICHITA KS 67207 I would like to say that I believe that staff has offered an alternative that should be explored before any final decision is taken, and that is the possibility of locating a flagpole where you would expect to find a flagpole and that would be at the V.A. Hospital. I am opposed to the lighting of the pole, because when they had taken the trees out for construction my yard is now as bright at midnight as at high noon because of the lighting from all of the car lots. If they do put a flag on that pole they need to do so in accordance with the federal guidelines for displaying the United States flag.

CHARLOTTE FOSTER, 702 COURTLEIGH DRIVE, WICHITA KS 67218 I represent Fabrique Neighborhood Association. There are other locations where this could be located that would not be such a visual impact on my neighborhood. I can hear Steven's phones over at my house. The City has spent millions on Kellogg. I have 76 signatures from my neighborhood, and we are all opposed to it. I am puzzled by these reconstructing existing flagpoles. You don't tell me which ones you are talking about. This needs to be explored more.

GARY POORE, MAYOR, OF EASTBOROUGH, 1 DOUGLAS, WICHITA KS 67207 It boils down to one thing for me. I am very concerned about the visual impact about what this thing is really going to look like. I called a friend of mine, who is an engineer, and I asked him if he could take a picture of the location, take the plans that have been submitted for the 165 foot height, and put that in there to scale, so I would know what that would look like, and I will pass these pictures out and one for the record. I honestly think this thing is going to look horrible. If this is the best we can do for the community, we have lost. There has got to be some better answer. If this is what the Wireless Plan allows, then I think we need to revisit the wireless plan, because this is not going to get better. It is going to get worse.

AL HIGDON, 3 COLONIAL CT, WICHITA, KS 67207 I am opposed to this tower. I understand that you have passed this once, and we are asking you to reconsider your decision. It seems to me what we have is a site developer and a cell phone company and a lobbyist, who is a friend of mine, with a problem, and they have proposed to solve their problem by putting their trash in somebody's

neighborhood. This is not the first neighborhood that has been proposed, and it probably will not be the last. I dare say that if any of you had your front door or your backyard were at the base of this pole you would be in my position now talking to somebody about it. People will be laughing at us when they see this thing coming in on the highway from the east. I implore you to think this through and reject this for the good of the community.

JAMES SMIT, 16 LAKESIDE, WICHITA KS 67207 I have concerns about health issues. Although none are proven, I don't want to be a guinea pig in the case of having a microwave transmission tower within a 1,000 feet of my home. I feel like the tower is very unappealing and don't want it there at all. I feel like the use of the tower as a flagpole is a case of Crass commercialism, and if the flagpole goes in or the tower goes in, I would request that we not have any lighting and that we not have a flag.

MR. F.D. JABAR, 35 Hampton, Wichita, KS 67207 I am opposed to the proposal here today. I certainly share some of the lifestyle in our neighborhood because of the construction and the things that are going on in the area, and certainly there must be a better solution to this problem than the one that is being proposed. I also hear the telephones from the car lots and our house is lit up every night by the lights from the car lot and all of that, and we certainly tolerate all of that, and I think this is just an added dimension of life that really doesn't add to the quality of life in Wichita, and it does not add to the way our City appears. I hope you vote this proposal down.

DAVID SOLES, 20 WILLWOBBROOK WICHITA KS 67207 I have two objections to this. This will be a visual nightmare. It is going to be ugly, and there is no way that we can hide that. My second objection is that I am opposed to use the American flag for what was just pointed out to be crass commercial purposes. When I went to the neighborhood group back in March, Mr. Ferris said that Stevens Motors was very pleased to have this flag, and I don't believe this is true.

BRUCE ROWLEY, 16 PEACH TREE, WICHITA KS 67207 This is actually a location looking for a cell tower. At Woodlawn and Lincoln they have been contacted already for such a cell tower site but that the feeling was that they weren't going to be contacted again until they could see if they can get it through this. I doubt that this has truly been thought out and all other possible locations have been looked at. To call it a disguised tower is an insult. I have seen Michael Jackson disguised at the mall in National Inquirer look better than that. It is absolutely not a disguised. It is clearly a cell phone tower.

ALAN JOSEPH, 22 WILLOWBROOK, WICHITA, KS 67207 I am opposed to this tower. I have several concerns. Staff does the best they can do under adverse conditions, but unless they have the applicant's computer software and computer; they cannot take a model and have the work done that Cricket has had done to confirm if that is right or wrong. Mr. Ferris will tell you that Hillcrest Bank Building will not work and that it is impossible to use for a cell site co-location. That is absolutely untrue, and it can be used, and it will take a little more work on the engineer's part, and it can be done. There are other sites in town that can be used and shorter poles. The flagpole cell tower does not meet the Wireless Plan. Look at page 15. It talks about design guidelines. As a general rule, the less visible and intrusive a proposed Wireless Communication site is the more acceptable it will be. This will be out of portion and out of context. Multiple sites will bring in multiple sources of revenue not be just more expensive. Lastly, telecommunication is going to keep changing. I think we should consider having a moratorium at this point.

GREG FERRIS I am passing around a photo simulation of the proposed site. I know a about photo simulations, and in Lincoln, Nebraska every site we did had to have a photo simulation attached to it. Just to make sure there is no mistake about what your seeing is accurate, also in your packet you will see 150 foot monopole which is 6 foot at the base taken from the same distance as that picture, so that there is no mistake what you are looking at is a flagpole at 600 feet. You will see that it is a little bigger around at the top than this pole. I never said that it isn't. You will see the size of the flag. It is not very small. You look at that picture and then tell me that it is everything that you have heard it is going to be today.

If you will look at the picture that a lot of them have in their mind, they have submitted this picture. Now compare that to what you see. That other flag is 167 feet away from that other flag that you see. Lay that pole down and it is going to be well in access of 220 feet, so what is in their mind is not what we are going to build. This will be 6 foot at the base it will taper to a little under 46 inches. Compare that to a flag pole of 127 feet that will be 36 inches at the base and taper to about 12 inches. I could never answer all these questions in two minutes. That was what my job was to do. I know what I will do is conclude my remarks, and then if you have heard questions that would like me to respond to I will.

GAROFALO Could you talk about the Hillcrest Bank maybe putting a tower there?

FERRIS I know how we evaluate sites. I didn't say that it was impossible to put antennas on there, but I said that Cricket would never put their antennas on top of this building under any circumstances. It is to close to its other site. It is not even ¼ mile to our other site. We don't spend \$500,000 putting equipment on what is worthless, and I know they think that this application is a developers application. This application is a FCC protected application because the applicant is Cricket Communications.

GAROFALO What about the Veterans Administration property?

FERRIS If you will consider we are down here, (pointing). This is multi-family here. This all commercial car lots here. This the V.A., property. The V.A. and Ms. Chauncey told me at the D.A.B. that she had talked to them and I called them just to make sure I wasn't losing my mind, we can't go on the building, we can go in this corner here. Originally we were looking at this site when I was negotiating with them, and they have determined that this is the only site that they will allow a cell tower on their property. This is what the woman told me less than 10 days ago. This site right here. There is a gentlemen who is pursuing a tower on this spot, and that is his business. I don't have anything to do with that. I don't think MAPC, or WCC will approve that tower. Nothing in here can be over 200 feet from the property. We are not talking about an isolated neighborhood. We are talking about an entire neighborhood, no buffering. If you come over here, you are buffered by a six lane road.

MOTION: BISHOP moves to DENY based on the following findings: The proposed stealth tower is to tall, to close to residential, and is out of character with the surrounding neighborhood. Several smaller towers would work and there are alternatives in the area. There is a problem with the lighting of the flag and sufficient assurances that would be taken care of. Co-location of one large tower as opposed to several is not an issue because there is not much co-location going on any way, and lastly because there is significant neighborhood opposition.

MOTION dies no second.

BARFIELD What is the boundary for a protest petition on this case?

MILLER On this site it would be 200 feet.

BARFIELD So therefore none of the people who spoke today would qualify for that petition?

KNEBEL That is correct.

MOTION: To recommend approval subject to the following conditions:

BARFIELD moved, **ANDERSON** seconded the motion.

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met, except as otherwise provided in Item D of this Resolution.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "stealth flagpole" design that is in general conformance with the approved elevation renderings. Antennas or other communication equipment shall not be visible on the exterior of the stealth flagpole.
- D. The flag shall be lighted only at night.
- E. The support structure shall be 135 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 165 feet and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. Any future ground-level equipment located outside the fenced compound shall be screened in accordance with a revised site plan that must be approved by the Planning Director prior to the issuance of a building permit.
- H. The site shall be developed in general conformance with the approved site plan and elevation renderings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

DUNLAP I am concerned that we are asking that this be approved with the flag going up and down every night. My personal opinion is that electric is a lot more reliable than people, and that the lighting can be accomplished at some level that will not be objectionable, probably not even seen by anybody around. I would prefer that it be a lighted flag rather than an unlighted flag that must go up and down everyday.

KNEBEL My understanding is that the Commission's recommendation was to have a lighted flagpole.

BISHOP Does that mean the recommendation that staff made and the conditions that you put in would be taken out?

KNEBEL I guess I could clarify with the motion maker if he was intending to recommend the same recommendation as the planning commission recommended last time.

BARFIELD Yes, that is what I meant.

WARREN Are we reconfirming our previous acceptance?

KNEBEL Yes.

MOTION carries 12-1. (**BISHOP**, opposed)

4. **Case No.: CON2003-15** – Webb Road Development c/o Johnny Stevens (owner); A&A Auto & Truck Salvage c/o John Mitchell (applicant); MKEC Engineering Consultants c/o Gene Rath (agent) request Amendment to CU-431 to permit an expansion of an existing auto salvage yard on property zoned "GI" General Industrial on property described as;

A portion of a Tract of land previously described in Film 1653 pages 1211 through 1222 inclusive, as recorded in the Sedgwick County Register of Deeds office; said tract being located in the East Half of the Southwest One-Quarter of Section 4, Township 27 South, Range 1 East of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas, and being more particularly described as follows:

BEGINNING at the Northwest corner of the East one-half of the Southwest one-quarter of said Section 4; thence N88 degrees 54'04"E, on a Kansas South Zone Grid Bearing, a distance of 690.99 feet along the north line of said Southwest one-quarter to a point on a non-tangent curve concave to the east, having a radius of 346.97 feet, a central angle of 43 degrees 24'18", a chord bearing of S10 degrees 36'14"W and a chord distance of 256.61 feet; thence along the arc of said curve a distance of 262.85 feet to the beginning of a reverse curve concave to the west having a radius of 1126.35 feet, a central angle of 10 degrees 00'01", a chord bearing of S06 degrees 06'00"E and a chord distance of 196.34 feet;

thence along the arc of said curve a distance of 196.59 feet; thence S00 degrees 55'56"E, on a tangent line, a distance of 468.00 feet; thence N88 degrees 54'04"E, 120.00 feet; thence N00 degrees 55'56"W, 200.00 feet; thence N88 degrees 54'04"E, 302.54 feet to the westerly line of a parcel described in condemnation case C-22052; said point being the beginning of a non-tangent curve concave to the west, having a radius of 631.20 feet, a central angle of 11 degrees 19'46", a chord bearing of S12 degrees 32'15"W and a chord distance of 124.61 feet; thence along the arc of said curve, being coincident with said condemnation case, a distance of 124.81; thence S29 degrees 29'47"W, on a tangent line coincident with said condemnation case, a distance of 182.09 feet; thence continuing on the westerly line of said condemnation case, S00 degrees 16'38"W, 306.83 feet; thence S60 degrees 19'43"E, coincident with the southwesterly line of said condemnation case, 43.94 feet to a point on the westerly right of way of the Chicago, Rock Island and Pacific Railway Company; thence S29 degrees 29'47"W, along the westerly line of said railroad right of way, 118.11 feet to the point of curvature of a tangent curve, concave to the southeast, having a radius of 2915.00 feet, a central angle of 20 degrees 31'43", a chord bearing of S19 degrees 13'57"W and a chord distance of 1038.84 feet; thence along the arc of said curve, coincident with said railroad right of way, a distance of 1044.42 feet to the point of termination of said curve; said point being 230.00 feet north of the south line of said Section 4; thence parallel with and 230.00 feet distant from said south line of Section 4, S88 degrees 45'32"W, 490.14 feet; thence N19 degrees 31'24"W, 381.22 feet to a point on the west line of the south one-half of the east one-half of the southwest one-quarter of said section 4; thence N00 degrees 45'26"W, along said west line, 730.15 feet to the northwest corner of the said south one-half of the east one-half of the southwest one-quarter of said section 4; thence N00 degrees 43'34"W, 1322.28 feet, along the west line of the north one-half of the southwest one-quarter of said section 4, to the POINT OF BEGINNING.

A tract to be known as Lot 1, Block 1, Stockyard Industrial Park Addition, an Addition to Wichita, Sedgwick County, Kansas; except the following described tract:

COMMENCING at the Northwest corner of the East one-half of the Southwest one-quarter of said Section 4; thence N88 degrees 54'04"E, on a Kansas South Zone Grid Bearing, a distance of 690.99 feet along the north line of said Southwest one-quarter to a point on a non-tangent curve concave to the east, having a radius of 346.97 feet, a central angle of 43 degrees 24'18", a chord bearing of S10 degrees 36'14"W and a chord distance of 256.61 feet; thence along the arc of said curve a distance of 262.85 feet to the beginning of a reverse curve concave to the west having a radius of 1126.35 feet, a central angle of 10 degrees 00'01", a chord bearing of S06 degrees 06'00"E and a chord distance of 196.34 feet; thence along the arc of said curve a distance of 196.59 feet; thence S00 degrees 55'56"E, on a tangent line, a distance of 93.00 feet to the POINT OF BEGINNING; thence N88 degrees 54'04"E, 422.05 feet to the westerly line of a parcel described in condemnation case C-22052; said point being the beginning of a non-tangent curve concave to the west, having a radius of 631.20 feet, a central angle of 15 degrees 56'12", a chord bearing of S01 degrees 05'44"E and a chord distance of 175.00 feet; thence along the arc of said curve, being coincident with said condemnation case, a distance of 124.81 to the end of said curve; thence S88 degrees 54'04"W, on a non-tangent course, a distance of 302.54 feet; thence S00 degrees 55'56"E, 200.00 feet; thence S88 degrees 54'04"W, 120.00 feet; thence N00 degrees 55'56"W, 375.00 feet to the POINT OF BEGINNING.

AND ALSO;

A tract to be known as Lot 2, Block 1, Stockyard Industrial Park Addition, an Addition to Wichita, Sedgwick County, Kansas; except the south 200 feet thereof. Generally located North of 21st Street North and east of Broadway

BACKGROUND: The applicant is requesting a Conditional Use amendment to permit the expansion of an existing wrecking/salvage yard permitted by CU-431, which was approved by the MAPC on May 15, 1997, for a 1.7 acre unplatted tract located north of 21st Street North and east of Broadway at 700 E. 21st St. N. The applicant is requesting to expand the existing wrecking/salvage yard to the extent that the area approved for the wrecking/salvage yard would increase from 1.7 acres to 45.43 acres. The subject property is zoned "GI" General Industrial, and a wrecking/salvage yard may be permitted by a Conditional Use in the "GI" district.

The surrounding area is characterized by heavy industry, with many resource-based industrial uses in the immediate vicinity. All of the properties surrounding the subject property are zoned "GI" General Industrial. Major uses in the vicinity of the subject property include: petroleum storage and refining and wrecking/salvage to the east; grain storage and wrecking/salvage to the north; meat product processing to the west; and wrecking/salvage to the south. The other existing wrecking/salvage operations in the vicinity pre-date the Conditional Use requirement for wrecking/salvage and are non-conforming uses.

The existing wrecking/salvage yard on the subject property has expanded in violation of the zoning regulations. The existing wrecking/salvage yard presently occupies approximately 10 acres of the subject property rather than the 1.7 acres permitted by CU-431, thus necessitating the application for the Conditional Use amendment. The applicant's site plan (attached) shows the current extent of the wrecking/salvage yard, which is located south of the southern-most "Phase Line." The site plan shows that the applicant proposes three additional expansion phases, for a total wrecking/salvage operation of 45.43 acres.

The applicant submitted the attached letter dated May 12, 2003, in which the applicant enumerates the proposed conditions under which the wrecking/salvage yard would operate. For the most part, planning staff finds the proposed conditions acceptable and is recommending only minor wording changes to the conditions so that the wording of the conditions is consistent with other recently approved wrecking/salvage yards. However, planning staff does not support three aspects of the applicant's proposal.

First, the number and scale of less-desirable, resource-based industrial uses in the vicinity already presents significant obstacles to the development or redevelopment property in the area. Planning staff is concerned that if the entire subject property were to become a wrecking/salvage yard, the character of the area would further lean toward exclusive use for wrecking/salvage, which would even further hinder the development or redevelopment of adjacent properties with more desirable, employment based industrial uses. Wrecking/salvage uses are generally considered an under utilization land because the property does not contain any building improvements or generate significant employment numbers to further the development and quality of life in the community. Also, such uses tend to cause environmental problems in an area where environmental problems already exist and a major environmental clean-up effort is under way. Therefore, planning staff recommends that the Conditional Use amendment permit expansion of the wrecking/salvage yard only to the area currently used and approximately the eastern one-third of the applicant's proposed first phase.

The second aspect of the applicant's proposal not supported by planning staff is the applicant's proposal to provide a screening fence only along the south end of the wrecking/salvage yard. Section III-D.6.e.(3) of the Unified Zoning Code (UZC) requires that a

wrecking/salvage yard be entirely enclosed by an eight-foot high solid screening fence, even when adjacent to non-residential uses. The nature of a wrecking/salvage operation is such that it can have a significant negative impacts on even commercial/industrial uses and, therefore, the UZC requires screening of a wrecking/salvage yard from all uses. Since the UZC requirement for wrecking/salvage yard screening is a Supplementary Use Regulation, the requirement can be waived by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff does not recommend waiving the screening requirement.

The third aspect of the applicant's proposal not supported by planning staff is the applicant's proposal to display salvaged vehicle parts so that they are visible above the screening fence from 21st Street North. The current Conditional Use prohibits this practice as does the UZC; however, the applicant currently displays salvaged vehicle parts in violation of the zoning regulations. As with the screening fence, only the City Council can permit the applicant's proposed display of salvaged vehicle parts, but planning staff does not recommended granting the requested waiver.

CASE HISTORY: The subject property is unplatted. On May 15, 1997, the MAPC approved a Conditional Use for a wrecking/salvage yard on 1.7 acres of the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Wrecking/salvage, grain storage
SOUTH:	"LI"	Various commercial/industrial uses, wrecking/salvage
EAST:	N/A	Wrecking/salvage, petroleum refining/storage
WEST:	"LI"	Vacant, meat product processing

PUBLIC SERVICES: This subject property has access to 21st Street North, a four-lane arterial street, and 25th Street North, an unpaved local industrial street. Current traffic volumes on 21st Street North are approximately 15,000 vehicles per day. The 2030 Transportation Plan estimates the volumes on 21st Street South to increase to approximately 28,000 vehicles per day, primarily due to additional cross-town traffic generated by proposed additional crossings of the Big Ditch. The 2030 Transportation Plan recommends that 21st Street North be widened to five lanes, and the City's Capital Improvement Program has budgeted this project for 2011. Municipal water and sewer services are available to be extended to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

1. The Conditional Use shall authorize the operation of an iron, metal, and auto wrecking/salvage yard. In no event shall the storage or bailing of waste, scrap paper, rags or junk (excluding metal) be permitted in conjunction with this use.
2. The Conditional Use for a wrecking/salvage yard shall apply only to that portion of the property illustrated on the applicant's proposed site plan that is located south of the southern-most "Phase Line" and that is located north of the southern-most "Phase Line" but east of western boundary of the "Excluded Area". The applicant shall submit a legal description of said property within 14 days of approval of the Conditional Use by the MAPC.
3. Within 30 days of approval of the revised site plan required by condition #4, all portions of the subject property currently containing wrecking/salvage shall be entirely enclosed by a white metal panel fence not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. Prior to wrecking/salvage operations expanding onto any portion of the subject property permitted for such use said screening fence shall be erected to entirely enclose the expanded area. Access gates shall be permitted in the screening fence, but all gates shall remain closed unless in use. No wrecked vehicles or salvage, including vehicle parts or accessories, shall be permitted for screening purposes or located on or attached to the screening fence.
4. Within 30 days of approval of the Conditional Use by the MAPC or governing body, as applicable, and prior to the release of the Conditional Use resolution authorizing use of the property as a wrecking/salvage yard, the applicant shall submit a revised site plan that shows the reduced area required by condition #2 and the location of the screening fence required by condition #3. The site shall be developed in general conformance with the revised site plan.
5. The height of wrecked vehicles or salvage, including vehicle parts or accessories, shall not exceed the height of the screening fence and shall not be visible from ground-level view from any public right-of-way or adjoining properties.
6. Salvaged materials are to be piled and stored in an orderly manner such as would be provided by racks or bins. In order to reduce rodent potential, racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. Non-rackable material shall be stored with an exposed perimeter or in a manner specified by the Environmental Health Department to prevent rodent harborage and breeding.
7. The applicant shall maintain at all times an active program for the eradication and control of rodents.
8. Weeds shall be controlled within the salvage area and adjacent to and along the outside perimeter of the screening fence.
9. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the wrecking/salvage yard shall be provided by fire lanes per the direction and approval of the Fire Department.

10. Access to the subject property shall be provided for an environmental investigation. Expansion of the wrecking/salvage operation beyond the current limits of the operation shall not occur for a period of one year from the date of approval of the Conditional Use by the MAPC or governing body, as applicable, to allow time to complete said environmental investigation. The applicant shall permit on-going inspections of the site for soil and groundwater contaminants by the Environmental Health Department and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells on the property to monitor the quality of groundwater and shall pay the cost of an annual groundwater test for contaminants as designated by the Environmental Health Department.
11. Notification shall be given to the Environmental Health Department of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with the Environmental Health Department. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Health Department.
12. The applicant shall implement a drainage plan approved through the platting process that minimizes non-point source contamination of surface and ground water.
13. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
14. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by heavy industry, with many resource-based industrial uses in the immediate vicinity. All of the properties surrounding the subject property are zoned "GI" General Industrial. Several wrecking/salvage operations are located in the vicinity of the subject property. The proposed wrecking/salvage yard is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GI" General Industrial. A wrecking/salvage yard may be permitted with a Conditional Use in the "GI" General Industrial district. The property is apparently suitable for the industrial uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include screening the wrecking/salvage operation from nearby commercial/industrial uses.
4. The relative gain to public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship on the applicant to be imposed by requiring the existing wrecking/salvage operation to be relocated is greater than the relative gain to public health, safety, and welfare since the site is located in an area where wrecking/salvage is an established use and the operation would need to be located to a location where the practice may not already be established.
5. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development.
6. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

SCOTT KNEBEL Planning staff presented staff report.

WARREN What is the status of that plat?

KNEBEL The preliminary plat has been approved by the Planning Commission.

WARREN There is no problem with the plat or the zoning, so now it is just a matter of the Conditional Use?

KNEBEL It was only a preliminary plat that was approved, so it will have to come back for final approval. I think the applicant is intending to see how this comes out and see what changes they need to make to the final plat based on the Conditional Use.

WARREN What is the zoning to the west?

KNEBEL It is all General Industrial entirely surrounding the site.

WARREN What is the use now?

KNEBEL It is vacant land. I think there is one use near the tracks.

WARREN What are we screening? I realize we got Code that says that we have to screen, but I am not sure what we are screening from.

KNEBEL They would be screening from vacant ground at this point, and the indication that I had given to you previously is that this type of use, a salvage use, is generally incompatible with a more employment-based industrial-type use that would generate construction and create new jobs. These are the types of things that the community is looking for their industrial property to do as opposed to being a wasteland for vehicles that nobody wants anymore.

WARREN That's a business. That is not a wasteland.

KNEBEL But the productive nature of a business that has a large number of employees that would perhaps manufacture something is significantly greater to the community.

WARREN Have you looked at the Derby Refinery over there lately?

KNEBEL I understand, but the Derby Refinery did have a lot of jobs and generate a lot of income for this community for a long time.

WARREN But it hasn't for a number of years.

KNEBEL But it did.

HENTZEN Scott, is this in the polluted area?

KNEBEL It is it is in the North Industrial Corridor.

HENTZEN This Conditional Use that we are working on, do you think it will add to the problem or will the problem be about the same as it is now?

KNEBEL I am not an expert on that to know for sure, but the indications from my discussions with the Health Department are that if they follow the requirements, primarily in Condition #11, that it should not add to the problem.

HENTZEN If you have been up the Turnpike lately there is one of the Counties up there that has been adding trucks and cars, boats, and everything for years and it is just right next to the Turnpike, just outside of Kansas City. I don't think they have ever taken anything out of that field. It looks like 160 acres, and the reason I say that is that a salvage operation for vehicles, I have always felt that we need them, they are a part of our life, but we should try to screen them properly.

DUNLAP On Condition #10 since the area is in the North Industrial Corridor, don't we already have wells there?

KNEBEL There are some wells there. The Health Department has indicated that they do not have all the information that they need from this particular property.

DUNLAP So it would be to determine what is already there, not to be sure that they are not contributing?

KNEBEL I think it is a little of both. You determine what is there now, and then you continually monitor it to determine if there have been changes that are attributable to the salvage operation.

DUNLAP There are a whole bunch of wells out there.

KNEBEL I believe there are six monitoring wells on the property now. The Health Department indicates that they are located along this west property line, and they have some concerns in addition to the groundwater with the conditions of the soils on the site, and they would like to be able to test those as well before the whole site is covered with vehicles.

GAROFALO If we limit it to the acreage that you want to, and not approve the whole thing, what is going to prevent them from going in there anyway like they have already done?

KNEBEL Based on past experience, probably very little.

GENE RATH MKEC I think Scott has fairly stated most of the issues. The owner would like the entire site to be included. He is willing to compromise to something less. I don't think they see anytime in the near future where they would use the property for something other than salvage. They have no problem with the screening fence on the south side as it exists today, and the owner has said that he would be willing to screen the west side as far north as operations go if you would approve the entire site for the Conditional Use. He would propose to screen only as far north as he is working. The Health Department assures us that the operation is in compliance with all the required health codes, and the Health Department has been out there to inspect the site.

WARREN Help me follow this map. You are talking about the yellow and orange and then up in the first phase of that? That would be the area you would be talking about for possible compromise?

RATH He would like to zone the whole area, and that is what the request was for, but if you are leaning for a compromise, he would like it up to here (pointing).

WARREN Dale, is it fair to assume that we might ask for a contingency fence that would implemented upon extended use going north?

MILLER The fencing requirement is a Code requirement, and so he will have to do that unless at the time the Council considers it they waive that requirement.

BISHOP Chain link is not considered screening?

MILLER That is correct, chain link is not screening. From staff's perspective, if you go up to the point that we were talking about there that is even with the panhandle line. If we went to there, there really wasn't any reason not to give them the whole thing.

WARREN But a conditions of that would be to implement screening requirement all the way along the west line.

MILLER You can recommend that the screening be waived, but the Council would have to approve it.

HENTZEN What are the chances of doing the whole thing, but the fencing go in as they go north?

MILLER As they move north, they will have to screen whatever they are using, but if they drag a car all the way to the north end, and even if there are only four or five up there, they would have to screen the whole deal.

MCKAY If we went up to where that other proposed line was north that, staff would just as soon do the whole thing?

MILLER Might as well, and then be done with it.

MCKAY That same line across there, could you put the fence across there, and then down the west side, and then if they move further north on the west, they do that as they move northward?

MILLER Yes.

MOTION: To approve subject to the recommended conditions from staff except that the entire property requested be granted the Conditional Use and that the screening fence be required for all areas used for salvage except along the east where the property borders the railroad tracks and that as they expand the salvage area they screen the expanded area as well.

MCKAY moved, **MCGINTY** seconded the motion, and it carried (12-0).

5. **Case No.: CUP2003-27 DP191 Amendment #12 -** Bradley Fair One, L.L.C. (owner); P.E.C., P.A. c/o Rob Hartman (agent) request Amendment to The Wilson Property Community Unit Plan on property described as;

Lot 1, Block 1, Bradley Fair 4th Addition, Wichita, Sedgwick County, Kansas. Generally located South of Bradley Fair Parkway and east of Rock Road

BACKGROUND: The applicant is requesting to amend the wall signage provisions for property zoned "LC" Limited Commercial of DP-191 Wilson Property C.U.P. The request is to increase the height and amount of wall signage permitted for Parcel 8. The applicant is requesting that requirements be modified in order to allow Ultimate Electronics to place a sign that is a total size of 137.50 square feet and has individual halo lit channel letters five feet in height. The Ultimate Electronics sign on the west elevation would be located approximately 160 feet from the west property line.

Currently, the height of individual channel letters for wall signs on Parcel 8 is limited to three feet in height unless the building is greater than 25,000 square feet in size and located at least 300 feet from Bradley Fair Parkway or Rock Road. Then the letters can be five feet in height. Total wall sign size is limited to 100 square feet when the wall façade is not located more than 300 feet away from Bradley Fair Parkway or Rock Road, and then can be increased to 200 square feet.

The existing Bed Bath & Beyond sign meets the above criteria of being more than 300 feet from Bradley Fair Parkway for the north elevation and more than 300 feet from Rock Road for the west elevation. The Bed Bath & Beyond signs on the north and west elevations are 199.50 square feet in size and total height of the sign is seven feet. The signs are comprised of two rows of letters, with each row being slightly more than three feet in height.

The Pier One wall sign facing Rock Road does not meet the criteria for taller letters and larger size. The building is approximately 45 feet from the western property line. The Pier One wall sign on the west elevation is 2' 6" in height and 47.5 feet in size. The sign on the north elevation is three feet in height and 76.5 square feet in size.

The surrounding area includes the Bradley Fair shopping center and several restaurants to the north of this site, located on property zoned "LC" Limited Commercial. An office complex on property zoned "GO" General Office is located directly west. An apartment complex zoned "MF-29" Multi-family and another shopping center zoned "LC" are located to the northwest. The property is bounded on the south by railroad tracks and a 160-acre residential estate zoned "SF-5" Single-family residential. The property to the east is the Belmont at Wilson Estates, on property zoned "SF-5".

CASE HISTORY: The property is platted as Lot 1, Block 1, Bradley Fair Fourth Addition, recorded July 14, 2000.

DP-191 was established April 25, 1988, and was first amended on November 5, 1991. On November 7, 1995, the Wichita City Council approved the second amendment with an associated zone change request (Z-3177) for additional "GO" General Office and "LC" Limited Commercial areas. The amendment increased the amount of office and commercial uses permitted and made a number of changes to access controls, architectural and signage restrictions, and building height.

The C.U.P. was again amended on February 6, 1996 for an additional 1.77 acres located in an area south and east of 21st Street North and Rock Road, in order to allow for a slightly different site development plan for a proposed commercial development that was approved by the City Council on November 7, 1995. The C.U.P. was also amended on January 16, 1997, to combine existing Parcels 1, 2, and 3, into two parcels, reconfigures a common property line share by DP-191 and DP-201, and allowed banks and financial institutions as a permitted use in Parcel 1. Amendment # 5 increased the building height from 55 feet to a maximum of 65 feet for a portion of Parcel 2, Bradley Fair Estates. In January 1998, the C.U.P. was amended to increase signage and reduce

spacing between signs for those parcels located along Rock Road. The City Council denied Amendment #8 on March 3rd, which was a request to increase the building sign area on Parcel 1 from 32 square feet to 90 square feet.

Amendment #9, in April 1998, was approved for Parcel 2 to increase the building sign size to 100 square feet from 32 square feet for those buildings within the portion of Parcel 2 zoned "GO" General Office; increase the building sign height from 30 feet to 35 feet for those buildings within the portion of Parcel 2 zoned "GO" General Office; increase the building sign height from 30 feet to 58 feet for those buildings within the portion of Parcel 2 zoned "LC" Limited Commercial; reduce the building setback line from 35 feet to 15 feet along the south and east property line of Parcel 2; and increase the maximum floor area for Parcels 2 and 3 to 276,000 square feet with hotel use on Parcel 3 increased from a maximum of 60,000 square feet to 95,000 square feet.

Amendment #10 combined Parcel 9 into Parcel 8, and approved the entire parcel for "LC" zoning (associated with Z-3308). It was this amendment that set forth the two options based on using most of the tract for office uses or locating one large department store. During the hearing, concerns were expressed about the volume of traffic that the department store would generate. A traffic study, "Bradley Fair Shopping Center Traffic Impact Study," HSC Consulting Group Inc., February 3, 1999, was prepared as part of the amendment, but not available at the time of the MAPC hearing. Agreement on the scope of improvements was determined subsequently. Amendment #11 again altered the use of Parcel 8 to facilitate the development with several mid-sized retail uses and restaurants.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"	Commercial development, restaurants
EAST: "SF-5"	Residences
SOUTH: "SF-5"	Railroad right-of-way, estate
WEST: "GO"; "MF-29"; "LC"	Office, apartments, shopping center

PUBLIC SERVICES: The site has access directly onto Bradley Fair Parkway, a signalized intersection with Rock Road. There is complete access control along the Rock Road frontage. The proposed change should not affect traffic generation beyond that already permitted.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for "office and commercial" development. The **Commercial/Office Objective III.B** of the *1999 Update* seeks to "develop future retail/commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses".

Commercial locational guidelines stipulate that commercial development should require site design features to limit noise, lighting, and other aspects of commercial development to not adversely impact surrounding residential areas.

RECOMMENDATION: The requested changes in wall signage still maintain a consistent and somewhat restrained level of wall signage, although it allows taller letters at a closer distance to Rock Road.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request for Amendment #12 be **APPROVED** subject to the following conditions:

1. General Provision 6G Parcel 8 – Maximum height 30'
Building signs limited to 100 square feet per sign; designed with individual "halo" lit letters not exceeding three feet in height, and only on facades facing north or west. However, buildings 25,000 square feet or greater and that are set back 300 feet or greater from Rock Road for west facades or Bradley Fair Parkway for north facades may permit signage up to 200 square feet per sign with letters not to exceed five feet in height. Buildings that are set back 160 feet or greater from Rock Road for west facades or Bradley Fair Parkway for north facades may permit signage up to 140 square feet per sign with letters not to exceed five feet in height. (This is intended to limit the signage otherwise permitted in the "LC" district for the department store and to keep the signage design consistent with other building signage in the center).
2. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area includes the Bradley Fair shopping center and several restaurants to the north of this site, located on property zoned "LC" Limited Commercial. An office complex on property zoned "GO" General Office is located directly west. An apartment complex zoned "MF-29" Multi-family and another shopping center zoned "LC" are located to the northwest. The property is bounded on the south by railroad tracks

and a 160-acre residential estate zoned "SF-5" Single-family residential. The property to the east is the Belmont at Wilson Estates, on property zoned "SF-5".

2. The suitability of the subject property for the uses to which it has been restricted: The site is already approved for "LC" uses and could be developed as approved.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The modifications of the wall signage requirements would permit increased wall signage on Parcel 8, which will be visible from Rock Road. It may appear taller than the similar height of signage on Bed Bath & Beyond north elevation wall sign because it is located approximately one-half as far from Rock as the Bed Bath & Beyond sign.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The project is generally in conformance with the Land Use Guide of the adopted Comprehensive Plan.
5. Impact of the proposed development on community facilities: The amendment should have insignificant impact on community facilities.

DONNA GOLTRY, Planning staff presented staff report.

MOTION: To approve subject to staff recommendations and conditions.

MARNELL moved, **JOHNSON** seconded the motion, and it carried (9-1) **DUNLAP** opposed.

6. **No.: PUD2003-03 #17 -** Catholic Diocese of Wichita c/o Rev. Robert E. Hemberger (owner); VIP Reality c/o Matt Little; Don Folger Jr. & Associates, c/o Don Folger Jr. (agent) request Creation of the VIP Realty Addition Planned Unit Development on property described as;

Tract One:

A tract in the East Half of the Northeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Commencing at a point on the West line of said East Half of said Northeast Quarter, 257.58 feet North of the Southwest corner of said East Half of said Northeast Quarter, thence North on said West line, 122.32 feet for a point of beginning; thence East parallel to the South line of said Northeast Quarter, 1318.9 feet more or less to the East line of said Northeast Quarter; thence North along the East line of said Northeast Quarter, 297.3 feet more or less to the Southeast corner of the plat of Lexington, an Addition to Wichita, Kansas; thence West along the South line of said Lexington Addition, 1319.07 feet more or less to the Southwest corner of said Lexington Addition; thence South 296.24 feet more or less to the point of beginning, containing 9 acres, more or less.

Tract 2:

A tract of land in the East Half of the Northeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the West line of said East Half of said Northeast Quarter, 257.58 feet North of the Southwest corner of said East Half of said Northeast Quarter, thence North on said West line 122.32 feet; thence East parallel to the South line of said Northeast Quarter, 1318.9 feet more or less to the East line of said Northeast Quarter; thence South on said East line 319.9 feet to a point 60 feet North of the Southeast corner of said Northeast Quarter; thence West parallel to the South line of said Northeast Quarter, 1024.4 feet to the P.C. of a curve; thence Northwesterly on a curve to the right, having a deflection angle of 51 degrees 01 minutes, and a radius of 104.79 feet, a distance of 93.31 feet to the P.T. of said curve; thence Northwesterly on a tangent to said curve, 95.74 feet to the P.C. of a curve; thence Northwesterly on a curve to the left, having a deflection angle of 26 degrees 39 minutes and a radius of 126.66 feet, a distance of 58.91 feet, to the P.T. of said curve; thence Northwesterly on a tangent to said curve 117.45 feet to the point of beginning, containing 9 acres, more or less. Generally located Southwest of Maple and Maize Road intersection.

BACKGROUND: The applicant is proposing to develop a Planned Unit Development located along the west side of Maize Road, mid-mile between Maple Street and Kellogg Avenue. The unplatted tract is 17.14 acres in size with proposed development being: office, community assembly/indoor recreation and townhouse residential unit.

The tract has one (1) existing access onto Maize Road, on its northeast side, which serves an existing, vacant Catholic Diocese building. The Diocese building is the only existing development on the tract and occupies approximately 6 acres of the 17.14 acres. The Diocese building is approximately 50,250 square feet, with 11,960 square feet of it being a gym/basketball court. The applicant proposes to renovate this structure, keeping the gym for leasing to community groups and developing the rest of the building as professional office space. Even with the applicant proposing to share parking for the mixed uses of the building, the existing parking (101 spaces located in front of the building; 36,900 square feet) will need to be renovated and expanded to meet the parking requirement for the purposed uses. Including this renovated structure, the applicant proposes developing a maximum of 40% (223,985 square feet gross floor area) of the 17.14-acre tract as office. The renovated Diocese office, existing parking and existing drive of the Diocese building (not including the needed extra parking) represent approximately 30% of the proposed maximum total office development.

The applicant is also proposing possible townhouse residential units with one (1) unit per 4,000 square feet. The applicant's proposal is smaller than the tract's current "SF-5" zoning requirement of a minimum lot size of 5,000 square feet per unit, but larger than the "TF-3" Duplex zoning requirement of a minimum lot size of 3,000 square feet per unit. A townhouse is recognized in the Comprehensive Plan as a low-density – moderate density residential development suitable for planned developments. The applicant does not propose a maximum or minimum number of units for the tract.

Maximum height is recommended at 35 feet. With a proposed three-story residential building, the expected height, from the finished grade to the mid-point of a pitched roof where height is measured, could be this height or more. The applicant is proposing 50-feet from the finished grade to the mid-point of a pitched roof.

The setbacks are proposed as 25 feet from the property line for all office development on the tract. The "GO" zoning districts has setbacks of 20 feet for the front, 10 feet for the rear and zero feet for an interior side with 15 feet for a street side setback. The proposed residential has a front setback of 25 feet, 6 feet for the sides and a rear setback of 15 feet. The "SF-5" zoning district has setbacks of 25 feet for the front, 20 feet for the rear and 6 feet for an interior side with 15 feet for a street side setback.

There are existing, mature trees along the tract's south, west and most of the north side forming an almost solid landscape buffer between the tract and the abutting single-family residential. The applicant proposes to keep these trees and apply them as landscaping, screening and buffering.

The surrounding neighborhood is zoned "SF-5" and developed as single-family residences on lots ranging from approximately 8,000 square feet to 1 ½ acre tracts. The most common size lot appears to be between 8,000 square feet to 10,000 square feet. The Cowskin Flood Basin impacts the neighborhood and the subject tract. Parts of the southeast and southwest corners of the subject tract are located within the 100-year flood plain, with this total area being approximately 1.40 acres. Extending beyond and running somewhat parallel to the 100-year flood plain, is an undetermined amount of the subject tract that is within the 500-year floodplain. The houses in the neighborhood immediately south of the subject tract and across McCormick (street sign – Hidden Valley Road) are entirely within the 100-year flood plain. Portions of the neighborhoods to the west and east (across Maize Road) are within the 100-year flood plain and 500-year floodplain. There have been concerns expressed by the neighborhood in regards to the increase of impervious materials on the tract and its impact on drainage onto their properties. This area was part of the Halloween flood of the late 1990's. The applicant has turned in a One-Step Final Plat for review by the City Engineer. Due to the flood prone nature of the subject tract and the surrounding properties the plat will require development of the site to occur consistent with an approved drainage plan.

CASE HISTORY: The tract is not platted. Up until as recently as 60-days ago the Catholic Diocese had been using the building, the Holy Family Center, for their handicapped ministry educational services, with the handicapped ministry's offices located also in the building. The Diocese purchased the building in the 1960's with its prior use being a school.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residences
EAST: "SF-5"	Single-family residences
SOUTH: "SF-5"	Single-family residences
WEST: "SF-5"	Single-family residences

PUBLIC SERVICES: Transportation access is via Maize Road, a 4-lane arterial at this location; the 2030 transportation plan shows no change in this status. There are no improvements shown for this section of Maize, between Maple on the north and Kellogg on the south, except for the current, 2002-2004, improvements at the Kellogg – Maize Road interchange. There are no traffic counts at this location, but traffic counts south of the Maple – Maize Road intersection were approximately 16,522 cars per day and an approximate 15,152 cars per day, north of the Kellogg – Maize Road intersection. Public water and sewer services are available. The area has drainage problems during moderate to heavy rains.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the amended *2002 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the site as "public/institutional" and "low density residential". A PUD would allow renovation of an existing structure as office – community assembly/indoor recreation with more office and with low to moderate density residential development. Some elements of the propose development supports the efforts to encourage infill projects in Wichita.

RECOMMENDATION: The P.U.D. is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed P.U.D. meets most of these criteria in several ways. First, the office types of uses proposed for the tract do not match specific location criteria of the UZC. However, a mixed development of office, community assembly/indoor recreation and low – moderate density residential on the tract will allow for the renovation of a large existing structure that has unique design features; office space and a basketball court/gym. The leasing of the basketball court/gym would normally require "LC" zoning to allow this activity; by combining this activity with office space and a low - moderate density residential use under the PUD designation allows for a possible integration of a large infill tract into an existing single-family residential neighborhood.

That being said, there are several features of the design concept that need detailing and review prior to final approval and Staff has issue with the amount of proposed office development on this site and the lack of a maximum number for residential development.

First, proposed architectural character, materials and elevations are currently unavailable. Because of the close proximity to single-family residential uses, this level of site plan review is important to ensure compatibility. Also, design of the building footprints, drives, and parking areas (site plan) would provide a level of integration of uses that is currently unknown.

Second, the area is subject to flooding during moderate to heavy rainfalls. This is an existing problem; not one being created by the proposed development. The proposed PUD could be expected to contribute to the problem at an unknown level because of increased impervious area. The City Engineers will evaluate possible solutions, provided during the platting of the tract, to avoid any increase in drainage onto adjacent properties.

Third, the maximum area proposed for office development is not appropriate at this mid-mile location. The increase in traffic, as proposed for 223,985 square feet of gross office floor area, would generate approximately 2,570 trips per day at this site, compared to 447.97 trips per day for the current "SF-5" zoning for the amount of units allowed on 223,985 square feet. This traffic volume is better suited for an intersection that has been zoned for non-residential use and is totally out of character with the traffic trips per day generated by the established single-family development of the area. Without giving any maximum or minimum number of units for the proposed townhouses, the applicant is basically proposing, "GO" zoning at a mid-mile location. Staff proposes a reduction of the gross floor area of office use to 90,000 square feet, which would generate 990 trips per day. Staff is also proposing a maximum of 70 units of residential with 1 unit per 5,000 square feet, for a total of 350,000 square feet of gross area (less than half the total site of 746,618 square feet of the tract) for townhouses, detached single-family residential, patio homes or duplexes. Trips per day generated by the residential would be 700. Staff's proposed mixed use of office and residential would generate a total of 1,690 trips per day or 880 less trips per day off of the tract as generated by the applicant's exclusive office use.

Based on these comments and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions and platting within a year:

1. Add to the General Provisions the stipulation that the office buildings shall be designed with materials and architectural character that shall compliment the existing residential materials, color, texture, and roof types. Site elevations shall be submitted to and approved by the Planning Director prior to issuance of any building permit. If exterior renovation of the Diocese building includes removal of the existing stone exterior, then materials that compliment the existing residential materials, color and texture will be used.
2. Revise the total gross land area, to 17.14 acres, the maximum gross floor area for office to 90,000 square feet, include a maximum of 70 units of either, or a mix of, townhouses, detached single family residential, patio homes and duplexes, at 1 unit per a minimum of 5,000 square feet. Note that the maximum number of residential units can increase up to 100 units at 1 unit per 5,000 square feet if the gross floor area of the office use decreases to 60,000square feet.
3. Revise the maximum building height to 35 feet.
4. Provide a 25-foot setback running parallel to the north, east, south and west property line.
5. Add to the General Provisions permitted uses on the tract shall be general office, medical and dental services, church, community assembly, existing renovated indoor recreation (excluding bingo parlors, pool halls, billiard parlors, video game arcades, and amusement rides) library, park, & school.
6. Add to the General Provisions retain the existing tree lines on the north, south and west sides of the property to be applied towards landscape, screening and buffering requirements of the UZC. Retain as many existing mature trees as possible.
7. Add to the General Provisions all utilities installed underground.
8. Add to the General Provisions provide pedestrian walkways/circulation plan to be approved by the Planning Director, prior to the issuance of building permits. This plan will link the walk system to the existing sidewalk along Maize Road.
9. Add to the General Provisions all mechanical equipment shall be screened. All dumpsters shall be screened with materials compatible to the structures they serve.
10. Add to the General Provisions provide solid screening and landscape buffering between non-residential use and residential use on the tract.
11. Revise General Provision #8 to read 16-foot monument sign as allowed in the UZC for "GO" zoning. No flashing, moving or portable signs allowed.
12. Add to the General Provisions that a drainage plan shall be submitted for approval to the City Engineer and necessary guarantees for required improvements shall be provided at the time of platting prior to the issuance of a building permit.
13. The applicant shall submit landscape plans and site plans showing the location of all structures, access, drives, easements, reserves, etc, for approval by the Planning Director prior to the issuing of building permits.
14. Provide an additional 10 feet of ROW along Maize Road or an additional 10 feet of easement along Maize Road.
15. Access onto McCormick (Hidden Valley Road – street sign) restricted to the residential development within the PUD, as shown on a site plan approved by the Planning Director.
16. No development will occur until water and sewer have been provided to the site.
17. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes prior to approval of the parking areas. Fire Hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.

18. Revise General Provision #7 to the lighting shall comply with the lighting standards of the UZC, including lights shall be shielded to reflect light downward or direct light away from residential areas.
19. Revise General Provision #5 eliminating 'Sec IV A' and 'dated 2/13/97'.
20. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Historically the property was used as institutional use by the Diocese and its previous owner. More recently, the Diocese had been using the building, the Holy Family Center, for their handicapped ministry educational services, with the handicapped ministry's offices located also in the building. The current zoning is "SF-5" and would allow single-family residential, within the minimum development standards for this zoning district. The surrounding area is zoned "SF-5" and developed as single family residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family homes as currently zoned. The renovation and use of the Diocese building as proposed with the leasing of the gym/basketball court and the office use would require a zoning change to "LC"
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of a proposed mixed use of townhouse residential, office, community assembly/indoor recreation on this tract of land is not much different than what the Diocese building was recently being used for (office and recreation, although the gym has not been used for some time because of neglect) and what is permitted by right in the "SF-5" zoning district. The difference is in the possible development of the entire acreage and subsequent increase of activity in the area. The office type of uses as proposed by the applicant could have a detrimental effect on the existing low-density residential housing. The other potential detrimental effect is increased flooding brought about by the increase in impervious materials used in the development of the 17.14 acres. The additional runoff from the new development must be adequately addressed.
4. Length of time the property has remained vacant as zoned: the Diocese has used the property as recently as 60 days ago.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The *Comprehensive Plan* shows the property for public/institutional and low-density residential use, which is in conformance to some of the proposed uses on the tract. The Staff's proposed residential use is in conformance with the low-density residential designation shown on all property in the area. The use of the property would contribute to infill development.
6. Impact of the proposed development on community facilities: The site will have an impact of increased traffic on Maize Road, primarily generated by the office uses.

BILL LONGNECKER, Planning staff presented staff report. There are revisions to the staff report, and those revisions were presented.

DON FOLGER, JR. & ASSOCIATES, c/o DON FOLGER, JR. (agent) We wanted to remodel this existing Diocese building and a P.U.D. was the best way to do it. There is a gym in the middle of the building and we want to use it as a community center. The rest of the building would be for office. We are mostly in agreement with the staff comments, except for the following. We want the P.U.D. to be named Lillie P.U.D., like the Plat, and not VIP, which was the original idea. On Item #2 we want to be sure that townhouses and patio homes can be attached and that we are not limited to duplexes and single-family.

MILLER Staff does not object, but we don't know if the neighborhood will be opposed. In fact, I believe Staff comments include townhouses, patio homes, duplexes and detached single-family as permitted residential uses.

FOLGER Item #4 has a 25 ft setback on all 4 sides, but the plat has 20 foot on the east side, and we want to keep the 20 foot on the east as shown on the plat. The comment about the City Forester, we are not sure if this is necessary in that we want to keep the trees and maintain the screening on the north, south, and the west. We feel the landscaping on the east side should be per the codes. We would want to limit the trees on the west side, keeping mostly those within the 25-foot setback. The west side has a number of trees that go beyond the property line, and it presents a different look than on the south and north sides and would limit the amount of development on that side. On Item #15, in reference to the access along Maize Road, I met with Scott Logan after meeting with Dale, Scott and Bill and he was in agreement that we could flip flop them. Meaning that we keep what we have now, full movement on the existing access, and when we develop in the future we would put the full movement further south along Maize, per Traffic recommendation. On Item #11 we would like to keep the pole height to 20 feet, match the zoning ordinance. Item #1 is fairly subjective. We are going to redo the whole front face of the building. There are three different developments around there that were all built in three different time periods and I don't know how we can match one or the others? I would rather that comment was not there because it is so subjective to interpretation.

DUNLAP The Item #1 is subjective. It says that the side elevation, roof, and color will be approved by the Planning Director.

FOLGER I don't know the new guy, the new Planning Director, and #1, as it is written, will leave the door wide open, and I can't anticipate the new Director's interpretation. I know Dale and I would accept his direction on this.

WARREN Dale, on his request to all the modifications can you live with those?

MILLER Yes, we can live with them as long as the Traffic Engineer is in agreement with the access that he described.

FOLGER We could make it subject to the Traffic Engineer approval.

MILLER Yes, and we can delete #1.

ANN COTTER, 502 Hidden Valley, Wichita, KS 67209 My concern is the flooding and drainage problems in the area. As well as the vast increase traffic on Maize Rd., which will add lots of traffic here and right now, we can't get out onto Maize Road as it is. The access does present safety issues that are also a concern.

RANDY HOLLOWAY, 424 Stoney Point, Wichita, KS 67209 Lexington is a mile north. One of the things we noticed is that when it rains here, the site becomes an island. The drainage flows south and north off the site. The Lexington Housing Association has a berm built up on the north side to keep the water from going north. We've had to do some major renovation on the lakes out here. I am concerned how the water off of the proposed development will affect the 100 housing units around it.

DAVID LANE, 601 Hidden Valley Road, Wichita, KS 67209 I've been a resident for 25 years. The tree line to the south has never been the property of the Catholic Diocese, yet it is included in this application. The tree line is property of Hidden Lakes Estates so he really has nothing to do with that.

We are all concerned about the flooding. If you talk to Chris Carrier there were two additional issues that will remedy the flooding in this area. The first one is the detention pond that has been planned in northwest Sedgwick County off the Dry Creek that will need to be considered. The second project is the Cowskin remediation project. The Corp of Engineers is to review that project. The Corp was to make a decision on this, and we still haven't heard from them. I'm confused. We have seen two reports today, and they are different. If there is access planned out of this development on to McCormick or Hidden Valley Road, then I am very concerned about the traffic. We have had a serious problem with vandalism and speeding through our neighborhood the two curves on Hidden Valley Road encourage. We have had to hire off duty police officers to handle these concerns. Additional traffic will clearly do harm. The Goddard School district also runs 12 buses a day on that road.

D'ANN SULLIVAN, 10609 Hidden Valley, Wichita, KS 67209 I am the captain of the neighborhood watch. The original proposal has been amended a number of times, and to the Planning Department's credit it has been to try to accommodate some of our concerns. Part of my concern is not being able to keep up with the changes because not even 10 minutes ago Bill was changing the staff report. We want to maintain the character of our neighborhood. We don't want three story apartments in our neighborhood. The maximum lot size recommended in the original proposal was 5,000 square feet and today it is not even in there. We've talked about the trees lining the edge of the site, and how they form a seemingly solid buffer, but if the site has access onto Hidden Valley Road, the tree line will be broken. One of the recommendations was that they would maintain that tree line. If the site has access onto Hidden Valley Road there will be safety concerns, because of the size and design of Hidden Valley, in particular off of the west side of the road where it curves, and the blind spots they create. Possible flooding that the developed site would contribute to is also a concern, as there have six of us on the south side of Hidden Valley having been flooded out of our homes once already.

PHIL OSBORN, 10415 W. Haden Ct., Wichita, KS 67209 I object to the request as it currently is, we really don't know what he has proposed for this area, and there is no plat for the housing. At our first meeting, he said that it was for an office complex, and the applicant made comment that as it is currently zoned that apartment complexes can go in there. Several of us signed a document that we would approve for that building to be remodeled as office with the understanding that there wasn't going to be any multi-family residence in that property. I want my name removed from that paper.

LARRY PAUL, 11016 Hidden Lake Road, Wichita, KS 67209 I moved out there 32 years ago. That property was not in the floodplain when I built out there so I implore you to consider the flood problem there because I went through the flood. The tree line lane is very important to us, and I don't want it torn out. What is going to happen to the value of my property?

TROY LIVINGSTON, 10509 W. Hayden, Wichita, KS 67209, I have a concern with the community center component because my deck will face this property, and with a community center it will increase noise, traffic, etc., especially at night. I don't want this kind of facility behind my deck. On Maize Road there is a center turning lane, but it doesn't go far enough down. You need additional turning lanes to accommodate the traffic.

BRUCE HOPSON, 10429 W. Hidden Valley Rd., Wichita, KS 67209 I do apologize for repeating what others have said, but there is only single-family out there, and I am opposed to this new development.

HENTZEN I know about the floods because I live out there. I have been in touch with Chris Carrier, and he tells me that they are going to clean out that creek from Kellogg all the way north to Maple somewhere. I will tell you that after the first flood we were ready to clean out that creek but there was junk and trees there and it was blocking that water from getting away. The city was wonderful they sued us in court because they claimed that it was a habitat for something or other and we were prevented from solving the problem then. They are putting bridges over the creek out there and if they clean that out there should be a solution to the flooding.

DON FOLGER, I am not going to address the drainage because that will be required of us at the platting stage, and we will not impact the neighbors with the proposed development. On the traffic issue, by us reducing our amount of office and apartments, the traffic will be no more than if you took it as the current zoning. We want to use the tree line as a buffer. Our original goal was to remodel that existing building.

WARREN We heard this case a week ago at Subdivision, and the drainage issue seems to be substantial concerns, and I would like to hear from Vicky Huang.

VICKY HUANG, Public Works Engineering The platting engineer did submit a drainage plan, however there is not a site plan as to where the building is to be, where the drives are and how they are going to develop the whole site. On their drainage plan however they say when they develop they will put in a detention pond to limit the run off to existing condition. At the time of development their site plan will be going to Central Inspection, and the Engineering Division will be part of the plan review to make sure they provide a detention plan.

BISHOP The drainage plan is approved?

HUANG The drainage plan is on there they show how the lot is going to be graded on the preliminary plan. Yes, at the time of site development the detention pond will be provided. The applicant did agree to the detention pond.

WARREN We get a drainage map whereby you will be working with Central Inspection to be developed.

HUANG One large lot, but they did not say where this detention pond was going to be located on the lot.

WARREN You are going to have control beyond today where the ponds, and how many?

HUANG Right.

MOTION: To defer for two weeks so that some of these issues can be worked out.

GAROFALO moved, **BISHOP** seconded the motion.

WARREN What is the intent of the deferral?

BISHOP I would like to see something concrete as far as the drainage plan.

JOHNSON The drainage plan needs to stay with the plat itself. I don't believe the developer and the neighborhood are that far apart.

LONGNECKER Defer until the 1st meeting in July.

WARREN Would you be changing the site plan?

FOLGER We could do that ahead of time.

WARREN I think you should do a revised site plan.

MOTION CARRIES 12-0-1 (**MCKAY** abstains)

7a. **Case No.: ZON2003-26 (Associated with CON2003-16)** – Via Christi Riverside Medical Center Inc., c/o Terri Alexander, and City of Wichita (owners), JT Arnold & Associates, c/o Marlin Penner, and Baughman Company, PA, c/o Terry Smythe (agent) request Amendment to P-O #11 and P-O #1 to permit general office, medical office and a drive-thru bank uses on property zoned “GO” General Office

and

7b. **Case No.: CON2003-16 (Associated with ZON2003-26)** - Via Christi Riverside Medical Center Inc., c/o Terri Alexander, and City of Wichita (owners), JT Arnold & Associates, c/o Marlin Penner, and Baughman Company, PA, c/o Terry Smythe (agent) request Conditional Use to allow a drive-thru bank on property zoned “GO” General Office Lot 2 and the west 48 feet of Lot 1, Riverside Health System Addition, Wichita, Sedgwick County, Kansas. Generally located North of Maple and west of 135th Street West.

BACKGROUND: The applicant is requesting to allow a bank with a drive-through window and to amend Protective Overlay (P-O) #11 and the western 48 feet of Protective Overlay #1, located on property zoned “GO” General Office. The protective overlay amendments are needed to remove the restriction on P-O #11 to medical service uses only and clarify that P-O #1 allows banks, which are a Conditional Use in the “GO” district, and other general office uses.

The applicant is not requesting changes to other provisions of the protective overlays. Existing provisions of P-O #1 and P-O #11 require monument signs, limit light poles to 14 feet in height and restrict the amount of building lighting, require additional landscaping, and building materials with architectural compatibility and use of materials similar to surrounding residential uses. P-O #11 also limits the use of the property to medical office uses only and building height to 35 feet and two stories with the second story limited to 25 percent of the total building floor area.

The subject property is located on the north side of Maple approximately 300 feet west of the intersection of 135th Street West and Maple.

The property to the east (the remainder of P-O #1) is developed with a brick medical office building. The property to the south is zoned “LC” Limited Commercial (DP-225 Auburn Hills Commercial C.U.P.). The eastern half of the property is developed with a small retail strip center that includes a drive-through bank; the western half is vacant.

The northeast and southeast corners of the intersection of 135th Street West and Maple are zoned “LC” also. Overall, approximately 29 acres of commercial zoning exists at this intersection. The surrounding area beyond the commercial uses at the intersection are zoned “SF-5” Single-family residential and being developed with single-family uses except for the Auburn Hills Golf Course to the south.

CASE HISTORY: The property is platted as the Riverside Health System Addition, recorded July 18, 1997. Protective Overlay #1 was approved (SCZ-0717) on July 17, 1996 by the Sedgwick County Commission; Protective Overlay #11 (SCZ-0730) was approved March 4, 1996 by the Wichita City Council.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Vacant, estate
SOUTH:	"LC"; "SF-5"	Vacant, commercial, golf course, single-family
EAST:	"LC"; "SF-5"	Vacant, single-family
WEST:	"SF-5"	Vacant, single-family

PUBLIC SERVICES: The site has frontage along Maple. Maple is improved with four lanes, a center turn lane and decel lanes at the intersection of Maple and 135th Street West. Maple west of the intersection is a two-lane arterial. Traffic counts in 2002 were 2,254 vehicles (ADT). Projected traffic volumes for 2030 were estimated at 6,800 ADT, however, it is predicted that if the northwest bypass were to be constructed, traffic volumes would more likely be in the 9,000 to 10,000 ADT range. No improvements are scheduled on the city or county capital improvements program for Maple.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies this location as planned for office development.

The Far West Side Commercial Development Policy, adopted by the City Council in 1996, indicates that the scale of commercial development at the intersection of Maple & 135th Street West should be limited to a total of 24 acres. The Far West Side Commercial Development Policy also recommends that the appearance of commercial development should have certain characteristics in terms of signage, lighting, landscaping, shared internal access and architectural design.

RECOMMENDATION: This application conforms to the Land Use Guide of the *Comprehensive Plan*, and the P-O conditions generally conform to The Far West Side Commercial Development Policy recommendations. Maximum height of monument signs are not stipulated, which could result in slightly taller signs than allowed on the other four corners of the intersection. The existing plat allows two access openings on the subject tract, but the proposed site plan places these openings in locations that do not follow the city's access management policy guidelines.

Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request to allow a bank with a drive through window be APPROVED, subject to amended Protective Overlay #1 and Protective Overlay #11, as follows (ZON2003-00026):

1. The western 48 feet of Lot 1 and all of Lot 2, Riverside Health Systems Addition, shall be limited to office uses, medical office uses, and a bank with drive-through window.
2. Free-standing monument sign on the western 48 feet of Lot 1 and all of Lot 2 shall be limited to no more than 20 feet in height.

Conditional Use (CON2003-00016):

1. The site plan shall be revised to locate drive openings a minimum of 200 feet apart for right-in/right-out and 400 feet apart for full movement.
2. The applicant shall submit a revised site plan for review and approval by the Planning Director, with the revised site plan including those items specified by the Conditional Use Site Plan Guidelines.
3. The site shall be developed in general conformance with the approved site plan.
4. The applicant shall obtain all permits necessary to make the required site and landscaping improvements; all improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the east (the remainder of P-O #1) is developed with a brick medical office building. The property to the south is zoned "LC" Limited Commercial (DP-225 Auburn Hills Commercial C.U.P.). The eastern half of the property is developed with a small retail strip center that includes a drive-through bank; the western half is vacant. The northeast and southeast corners of the intersection of 135th Street West and Maple are zoned "LC" also. Overall, approximately 29 acres of commercial zoning exists at this intersection. The surrounding area beyond the commercial uses at the intersection are zoned "SF-5" Single-family residential and being developed with single-family uses except for the Auburn Hills Golf Course to the south.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GO", and could be developed with medical office uses as currently permitted under the existing P-O.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Far West Side Commercial Development Policy indicates that commercial development on the site should be limited in scale. Detrimental effects should be minimized by limiting the commercial uses to a bank only, which is a use permitted in the "GO" district by Conditional Use, and by requiring high design standards through the P-O.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the *Comprehensive Plan* identifies this area as suitable for office development. The Far West Side Commercial Development Policy indicates that the scale of commercial development at the intersection of Maple & 135th Street West

should be limited to a total of 24 acres. The Far West Side Commercial Development Policy also recommends that the appearance of commercial development should have certain characteristics in terms of signage, lighting, landscaping, shared access, and architectural design, which should be achieved through the recommended P-0 amendment and Conditional Use site plan.

5. Impact of the proposed development on community facilities: The impact of the change from medical office use only to general office, medical office and bank should be minimal on traffic and community facilities.

DONNA GOLTRY, Planning staff presented staff report.

TERRY SMYTHE, BAUGHMAN COMPANY We are down to one issue on the access point. This corner was platted 6 years ago.

MILLER If that is the only issue, Planning staff is not going to raise the issue, because Public Works is responsible for access, and nobody is here from Public Works to argue the point.

MOTION: To approve, subject to revised site plan.

DUNLAP moved, **MCGINTY** seconded the motion, and it carried (8-0-1) **MCKAY** abstains.

8. Case No.: A 03-11 - The City of Wichita seeks the annexation of properties generally located north of 27th Street North and east and west of N. Maize Road.

This is the first phase of a proposed two-phase annexation initiative for this area. The subject area for this phase consists of approximately 238 acres and 49 properties along with adjacent arterials and local road segments. The proposed annexation area falls within the City of Wichita 2010 and 2030 Urban Service Areas, as established in the Wichita-Sedgwick County Comprehensive Plan Preparing for Change, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. The Wichita-Sedgwick County Comprehensive Plan is the plan that has statutory jurisdiction over the annexation area. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 03-236 of the City of Wichita, to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **WARREN** seconded the motion, and it carried (8-0).

9. Amendment to the Transportation Improvement Program (TIP) 2002-2007 for certain federally funded projects, presentation by Jamsheed Mehta.

The MPO is required to update and submit the five-year transportation program to the Kansas Department of Transportation (KDOT) when there are changes to the program. The TIP is the MPO's document identifying all significant transportation projects throughout the Wichita-Sedgwick County planning area for years 2002-2007. The current TIP document was approved on April 18, 2002, and amended on September 26, 2002.

This amendment is essential to optimize and use up the available federal obligation authority for the metro area for federal fiscal year 2003. Other scheduling alterations reflect changes in local priorities.

The following amendments will be included (see attachments):

Streets and Bridges

- a. Re-program the let dates for five street/bridge projects so that the MPO's obligation authority for the use of urban formula funds can be used up before the end of federal fiscal year 2003; which is also the end of TEA-21.
- b. Push back four street/bridge projects based on input from participating cities.
- c. Add four new street/bridge projects for federal funding in 2003 to use up the available obligation authority before the end of year.
- d. Remove two street projects from federal funding per request from the City of Wichita.
- e. Amend the cost of two street projects.

Wichita Transit

- f. Amend certain transit projects in 2003.
- g. Add transit projects for years 2004-2007 using federal formula funds and discretionary funds.

Transportation Enhancements

- h. Amend the cost of two "enhancement" projects.

The Technical Advisory Committee (TAC) reviewed these projects on May 28, 2003, and recommends approval. A copy of the complete TIP document is available at the MAPD for your review.

Recommendation: Amend the Transportation Improvement Program 2002-2007 as presented, and authorize the Chairman to sign on behalf of the MPO.

JAMSHEED MEHTA, Planning staff presented staff report.

MOTION: MPO adopt amendments as proposed.

WARREN moved, **JOHNSON** seconded the motion, and it carried (9-0).

10. Notice of Transportation Enhancement Awards, presentation by Jamsheed Mehta.

KDOT has informed us that six out of seven projects submitted through the Wichita-Sedgwick County MPO have been selected for federal funding. Federal funds will pay for approximately 70% or \$2 million of the total cost of these six approved projects.

Pedestrian-Bicycle Trails Category

1. Pawnee (Woodlawn to Rock), linking Gypsum Creek (Turnpike) Trail to SE Wichita trails; Sedgwick County.
2. I-135 / Gypsum Creek Connection (Stafford at I-135, through Planeview, to GWB and Gypsum Creek (Turnpike) Trail in South Wichita.
3. Historic Midtown Greenway Trail (old UP Railroad) (Central & Waco to 15th & Broadway) in Central Wichita.
4. 111th Street (Rock to Webb) in Mulvane
5. Pear Tree and Orchard Acres Trails in Haysville

Scenic and Environmental Category

6. Landscaping K-96 trailhead and parking area in Grove Park (Hillside entrance); Northeast Wichita, Councilmember Brewer's District

A seventh project along I-135 connecting McAdams Park to Grove Park also qualified for approval but was not funded.

Communities throughout the state apply for Transportation Enhancements (TE) federal funds for pathways, scenic projects and restoration of historic transportation structures. TE is a federal discretionary fund program administered by the State. This round of approval is for federal fiscal years 2004 and 2005, and is contingent on authorization of a new transportation Act to follow TEA-21.

The MAPD process of choosing TE projects for submission to KDOT includes a kickoff meeting and working with neighborhood and citizen groups to solicit grassroots support in identifying eligible projects. Additional input and reviews by Wichita and Sedgwick County staff and the Transportation Technical Advisory Committee is sought to strategically identify projects with the best chance of approval. Ultimately, the governing body and the Metropolitan Planning Organization (MPO) approves the project applications with commitment for local financial match.

No action taken

The Metropolitan Area Planning Department informally adjourned at 5:17 p.m.

State of Kansas)
Sedgwick County) ss

I, Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)